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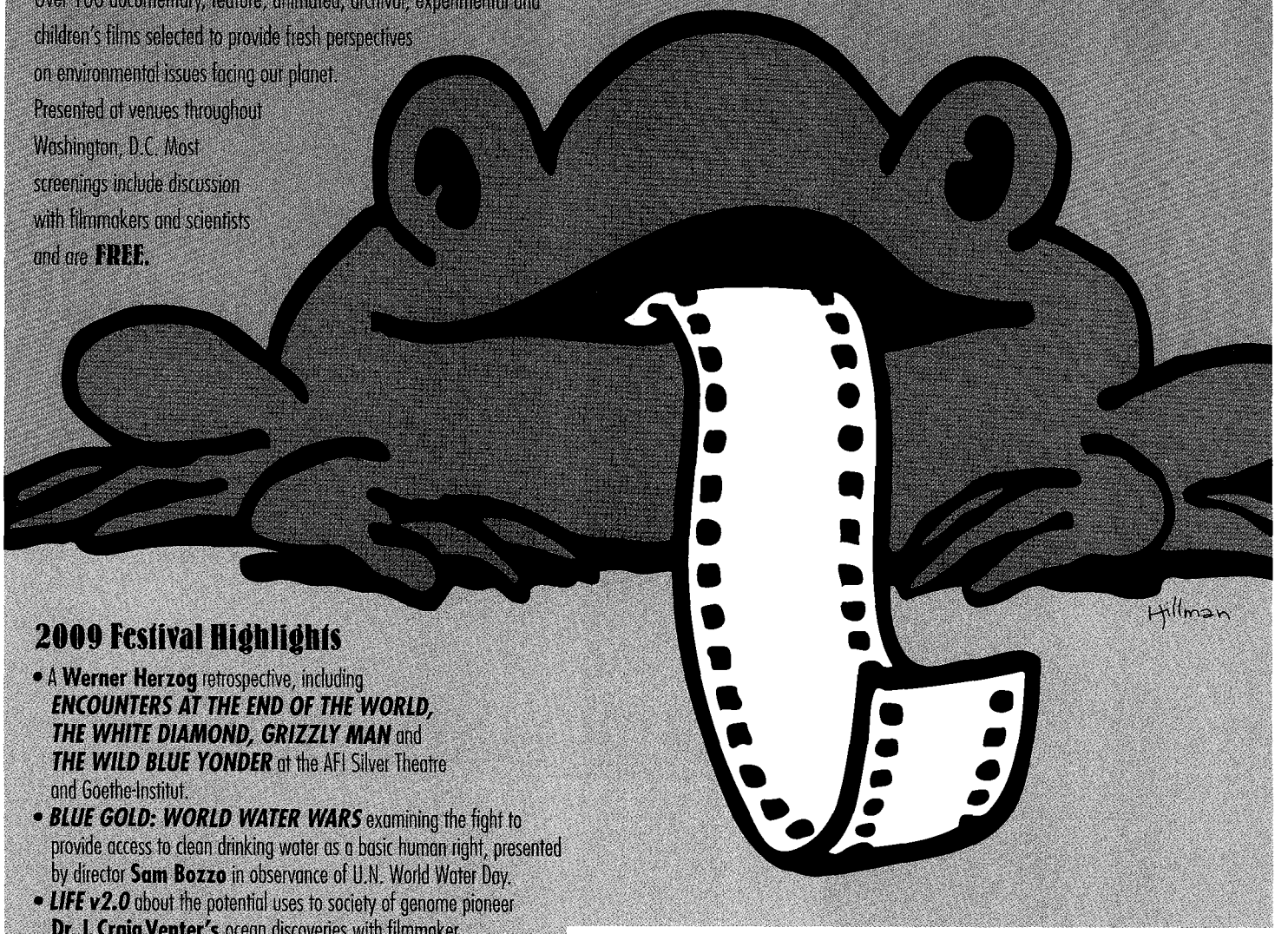


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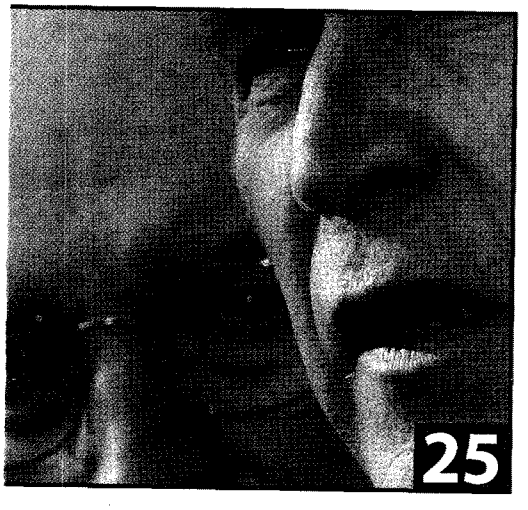

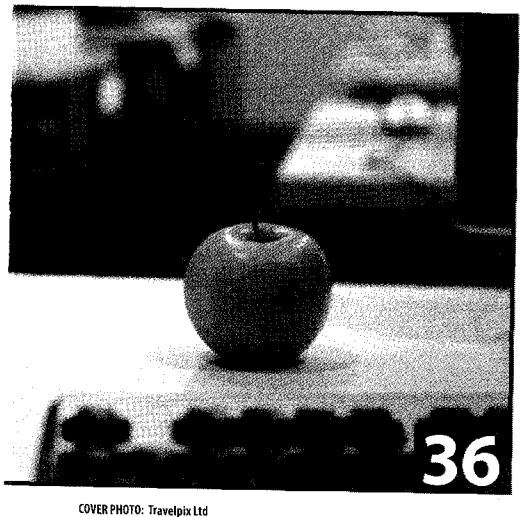


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**Subscription Rates:** U.S. and possessions: one year, $44.95; two years, $79.95; three years, $109.95. For Canadian and foreign subscriptions: add $10 per subscription year. Back issues, $5. *Washington Monthly* is indexed in the Book Review Index, Political Science Abstracts, Public Affairs Information Service, the Readers' Guide to Periodical Literature, and Ulrich's International Periodicals Directory and may be obtained on microfilm from University Microfilms International, Ann Arbor, MI 48106.
**Reprint Rights:** Please call 240-497-0321, or e-mail editors@washingtonmonthly.com.
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**Editorial Offices:** 5471 Wisconsin Avenue, Suite 300, Chevy Chase, MD 20815; telephone 240-497-0321; fax 240-497-0322. Unsolicited manuscripts can be e-mailed to services@washingtonmonthly.com or sent to the editorial street address.

**Washington Monthly** (ISSN 0043-0633) is published bimonthly by Washington Monthly LLC, 5471 Wisconsin Avenue, Suite 300, Chevy Chase, MD 20815. Washington Monthly LLC is wholly owned by W. M. Corporation, a District of Columbia 501(c)(3) nonprofit corporation. Periodicals postage paid at Bethesda, MD, and at additional mailing offices.

**POSTMASTER: Send address changes to Washington Monthly, 5471 Wisconsin Avenue, Suite 300, Chevy Chase, MD 20815.**

www.washingtonmonthly.com


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# Tony's big goal is to tackle hunger

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Tony Romo - Quarterback for The Dallas Cowboys

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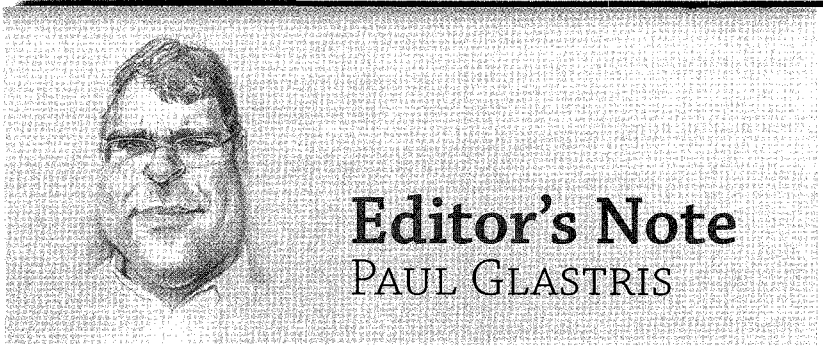

## Editor's Note

PAUL GLASTRIS

# Told Ya

Four years ago, we published a cover story on Barack Obama ("The Great Black Hope," November 2004). He had recently given his tour de force speech at the Democratic convention, and was about to be elected to the U.S. Senate. Already there was buzz about Obama possibly running for president. And already the question that hovered over him—and would continue to for the next four years—was whether American voters were "ready" for an African American president.

*We need a leader who understands the complex nature of our problems and is committed to finding solutions that work, even when they fall outside the political comfort zones of his supporters. This is the spirit that animates the* Washington Monthly, *and I hope it will animate the Obama White House as well.*

The answer, we argued, was an emphatic *yes*. The author of the piece, Ben Wallace-Wells, acknowledged that race remained a huge, often insuperable barrier for most aspiring black politicians. But, he argued, there are a few African American leaders whom "white Americans can actually picture being president" and whom they would vote for in part to demonstrate that the country has indeed moved beyond race. These black leaders—he mentioned Obama, along with Colin Powell, Doug Wilder, Cory Booker, and Harold Ford Jr.—have two characteristics in common:

> *[A]ll give off the sense that they have transcended traditional racial categories, by signaling in their speech and demeanor, their personal narratives and career achievements, that they fully share in the culture and values of mainstream America; they are able to transcend race through the simple fact of their class. Just as importantly, they also transcend ideology by declaring with their rhetoric and policy positions a self-conscious independence from the conventional politics of their parties.*

Both kinds of transcendence—political as well as racial—were required for an African American to reach the White House. As Wallace-Wells noted, there have been other black elected officials who, through their accomplishments and deportment, garnered enough white votes to win high office and national attention—think former Illinois senator Carol Moseley Braun or former Oklahoma representative J. C. Watts. But these individuals never generated much expectation that they could run for president and win, for they were conventional partisans who appealed only to whites in their own party. That Obama had to rise above both race and ideology in order to win the presidency is a testament to the extraordinarily high bar we set for blacks—a bar that whites, however unfairly, don't have to clear. It is also further evidence of Obama's astounding political skills.

But now that he's the president elect, the question arises: Was Obama's campaign of post-partisanship a genuine message or simply a sell job? Few question the genuineness of Obama's beyond-race views, but plenty still doubt the sincerity and wisdom of his beyond-ideology views. Many on the right fear that Obama was being untruthful: that the talk of unity across party lines was merely a disguise for hidden socialist aims. Many on the left, ironically, dread the opposite: that Obama was being *truthful*! They worry that in his quest for political compromise, Obama will abandon his progressive principles, load his administration with centrists, ratchet down his agenda, and blow a



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once-in-a-generation chance to move the country in a firmly progressive direction.

While I don't share the right's fears, I can understand the left's. Bipartisanship presumes a GOP minority (or at least a sizable majority of that minority) interested in compromise, and we have no idea if such a minority exists in Congress anymore, especially since many of the last remaining Republican moderates lost their seats in November. And there's a good case to be made that Obama should try to jam through as much progressive change as he possibly can quickly, while his leverage is strongest. It is at moments of crisis that a president can make his boldest moves, yet Obama seems, politically and policy-wise, quite cautious.

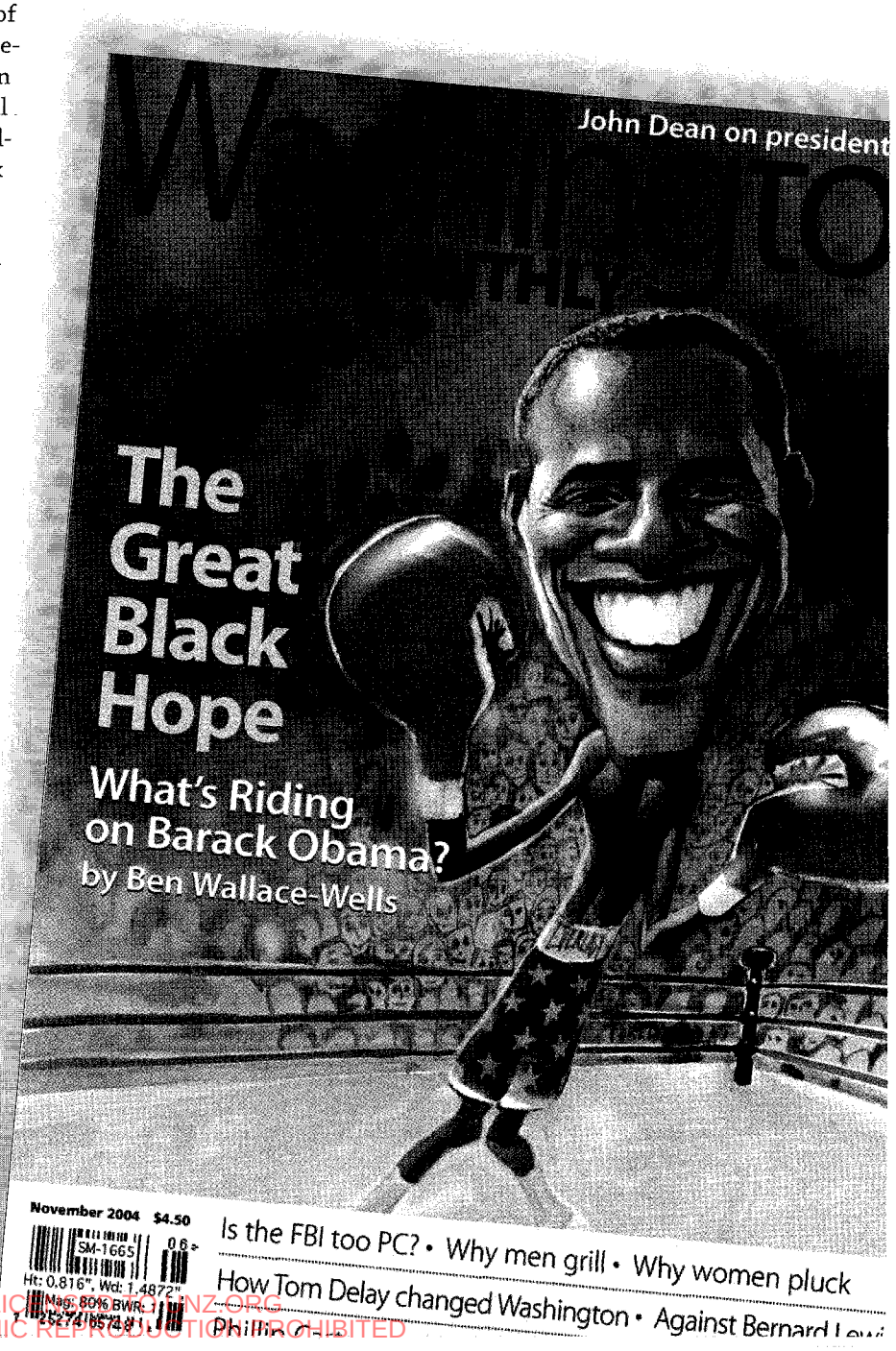
But at the same time, this caution is part of what many people, me included, most like about Obama: his deliberateness, his empiricism, and his suspicion of easy answers. The last thing we need, after eight years of George W. Bush, is another president drawn to "game-changing" policy schemes that promise the moon and appeal ideologically but don't work in the real world. What we need instead is the opposite: a leader who understands and can articulate the complex nature of the problems we face and is committed to finding solutions that work, even when they fall outside the political comfort zones of his supporters. This is the spirit that animates the *Washington Monthly*, and I hope it will animate the Obama White House as well.

To be honest, we didn't see much of this from Obama during the general election, for reasons that are understandable. But my sense is that it is the president elect's default mode of thinking. Consider this scene that Wallace-Wells witnessed at an Obama event at a black church in downtown Chicago four years ago:

> *Before his audience, Obama told a fortyish man worrying about taxes that government will have to do more to help the middle class, not less, and that limiting taxes shouldn't be his narrow political priority. He told a white-haired woman peace activist who criticizes Israel that the Palestinians are in the wrong, and then when this appears to encourage a pro-Israel man, tells that guy that the Israelis are far from perfect, too. Obama was measured throughout; he tends to come off as an expert and wonk, an earnest, hopeful policy nerd. A group of older black women asked, humbly, for vague assurances that he would redirect federal housing policy to emphasize low-rise, rather than high-rise, projects—most housing advocates think low-rise buildings would be easier to police and maintain, and encourage more neighborly interactions. The grandmas were throwing him a softball, hoping only for a signal that he was open to their concerns, that he would side with the experts. Obama was having none of it. "Low-rise isn't going to solve all your problems," Obama said sternly. "I've worked in the projects, and, let me tell you, low-rise has problems of its own." The particular lady who had asked the question looked rebuked, and there was a surprised wince in the church: Did he really just say that to a bunch of trapped-in-the-projects grandmas?*

Yes, he did say that. And it's good sign that he did. Let's just hope he can summon the same level of candor as president.

And oh, and by the way, I'll bet the grandmas still voted for him. WM

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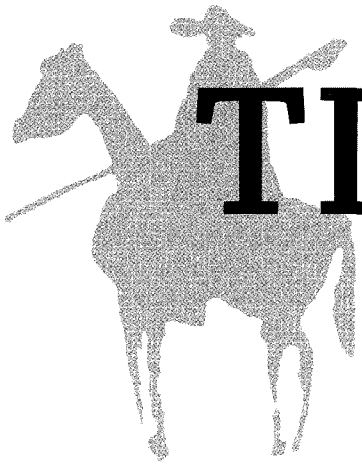

# TILTING *at windmills*

By Charles Peters

## The view from the ground

In our last issue, as a part of the effort to educate the new president on the culture of the executive branch of government, I emphasized the need for a president to reach down the chain of command and outside it to learn what is really going on beneath him. Toward that end, I have encountered no better advice than that given to Barack Obama by Senator Jack Reed during Obama's visit to Iraq in July. According to the *Wall Street Journal*'s Gerald Seib, Reed told Obama that "a good way to get some unfiltered information about what is happening on the ground is to talk to junior officers and journalists on the scene."

Lieutenants and captains who are actually doing the fighting have firsthand knowledge of what is working and what is not. There are analogous figures in every bureaucracy, close enough to the action but with enough command responsibility to give them an ability to generalize. They're usually more candid about what doesn't work—after all, they just saw one of their men die from lack of body armor—than generals, who often are so enamored of big-ticket items that will grow their budget that they ignore essential and lower-cost needs like body armor.

I agree with Reed's point about journalists. However, a distinction should be made. The journalists who are covering the war in Iraq should be consulted. They have firsthand knowledge based on experience. By contrast, the White House reporters often occupy the same bubble as the president and can tell him little that he doesn't already know.

## Guys who didn't get it

Among the economic advisers Obama is said to rely on are Robert Rubin and Larry Summers. Certainly, they are smart guys whose advice could prove valuable from time to time. But before giving them top jobs, Obama should remember that they were both dead wrong about the danger of derivatives, preaching against the need for regulation of these—as Warren Buffet puts it—"financial weapons of mass destruction." Furthermore, Rubin, after serving as Clinton's treasury secretary, joined Citigroup, where he was paid millions to front for the transformation of a solid bank into a financial supermarket that had become one of the shakiest institutions on the Street by the time it was bailed out. Throughout this process, Rubin never uttered a peep of protest.

> There are all sorts of ways for the new president to bone up on how his government can fail. Even movies can help.

## And they say the perpetual-motion machine is impossible

We were all shocked by the gang from AIG living high at the St. Regis Resort in Dana Point, California, at the same time they were being bailed out by the taxpayers. But did you know that AIG is also, still, according to Elizabeth Williamson of the *Wall Street Journal*, "spending money to lobby states to soften new controls on the mortgage industry"? A lot of that money, of course, comes from the pockets of you and me and other Americans.

## We're just trying to make a decent killing

News of similar import comes from the *Journal*'s Dennis Berman, who describes a recent gathering of big shots from Wall Street giants like Goldman Sachs and J. P. Morgan Chase. They insisted on talking about their need for tax breaks, protection from class action suits, and the repeal of Sarbanes-Oxley, instead of assessing their responsibilities for the financial disaster that has overtaken the country. One of the big shots, writes Berman, "took on a wounded look, saying that none of the people on the panel had done anything wrong."

To top it all off, Rachel Beck and Joe Bel Bruno of the Associated Press report that "the nation's biggest banks are preparing to pay their workers as much as last year, or more."

## White House movie night

There are all sorts of ways for the new president to bone up on how his government can fail. Even movies can help. *Tora! Tora! Tora!* gives a blow-by-blow



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accounting not only of the mistakes made by political and military leaders but also of a malfunctioning chain of command that denied them critical information again and again, with Pearl Harbor the result.

*A Bridge Too Far* shows a president an all-too-typical way he or one of his agency heads or generals can screw up. In the movie, a British commander's willful blindness to facts that do not fit his plan leads to the disastrous attempt to take Arnhem in 1944. Think George W. Bush invading Iraq in 2003.

*The Hospital* exposes how a public institution can come to almost completely ignore the best interests of the people it's supposed to serve. *The Hospital* is also a very funny satire, with great performances by George C. Scott and Diana Rigg.

Also funny as well as instructive is the British television series *Yes Minister*, featuring Nigel Hawthorne in the role of a clever bureaucrat skilled at manipulating his boss. Think Dick Cheney.

## I'll be proceeding with that invasion unless you tell me otherwise

For books that could help the new president, one that I recommend is *Angler: The Cheney Vice Presidency*, by Barton Gellman. I hope the president will not have anyone working for him as consistently wrong as Cheney is. He can be sure, however, that he will have subordinates who at least on some issues think they are smarter than he is or know better what should be done—and that they will employ techniques similar to Cheney's to get their way. One Cheney tactic, also said to be much favored by General David Petraeus, is known in the military as UNODIR, short for "unless otherwise directed." The way this works is the official decides on his own on a course of action, initiates it, and then informs his superiors that he'll continue "unless otherwise directed."

## Error seen by Nocera

Speaking of the bailout, I have to brag about our alumnus Joe Nocera. (You have to understand that with our alumni, I'm like the proud grandfather flashing pictures of the kids.) Now a columnist with the *New York Times*, Joe was the first to spot a crucial defect of the original bailout proposal, pointing out that the reason we were in this mess was that no one knew how to value the toxic instruments. How, he asked, was the Treasury going to buy something that could not be valued? Then, Joe spotted the crucial defect of the bailout that is now taking place: "Unlike the British government, which is mandating lending requirements in return for capital injections, our government seems afraid to do anything except plead." The result is that banks are holding on to much of the money that the Treasury invested in them and are not lending enough of it to reenergize the economy. The Treasury should demand that the banks receiving the money lend at least a goodly part of it.

> I challenge my colleagues in the press to follow up on the bailout legislation. What are the taxpayers getting in return for their investment?

## Follow the money

I have often criticized the press for failing to follow up to determine how laws passed by Congress are actually carried out. Too many times good intentions are thwarted by inept execution and other factors. See the book *Reforms at Risk*, by Eric M. Patashnik, for examples. That is why I now challenge my colleagues to follow up on the bailout legislation. What are the taxpayers getting in return for their investment? Are the bureaucrats in charge making the kind of deals Warren Buffet made with GE and Goldman Sachs, or are they giving in to pressure from lobbyists for the financial institutions and getting much too little in return? And what is happening with executive compensation at the companies we are rescuing? Are reasonable limits being enforced? And are dividends being paid to stockholders before the government gets its fair share?

## Battle-ready, at least during a cease-fire

The new president, faced with the need to devote huge sums to bailing out the financial community, is going to have to look for cuts in the rest of the federal budget. I suggest he take a look at the big-ticket items from the Pentagon.

One possibility for elimination is the Osprey helicopter, which *Time*'s Mark Thompson has described as a $20 billion boondoggle. After killing thirty men in test runs, the Osprey is finally operational in Iraq, and, in welcome contrast to its past record, has not crashed again. But, reports Bradley S. Klapper of the Associated Press, critics say it "lacks firepower for defense in heavy combat." As a result, it "avoids day flights into Baghdad or other tasks that entail excessive risk." For a helicopter designed to ferry troops into battle, this strikes me as a less-than-persuasive selling point.

## Rhee-form

Speaking of stories to which the press should attend, none is more important than Michelle Rhee's struggle to get rid of the dead wood among Washington's public school teachers. She is being opposed by the local and national teachers' unions, but her effort is crucial, for what it can mean not only for Washington's dysfunctional schools and for other school systems that have similar problems, but also for the new president if he is going to revitalize the federal civil service.

## While Ralph Nader was busy running for president

One sure challenge for the new president will be to reform regulatory agencies. The need for reform is equally great at financial regulators like the Securities and Exchange Commission and at health and safety agencies like the Food and Drug



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Administration. The George W. Bush administration has presided over the greatest sellout of regulators to the regulated since regulation began. It has to be conceded that selling out was already under way before Bush took office, but Bush greatly accelerated it and continues to put the pedal to the metal even in the last days of his administration.

Just one example of lame-duck skullduggery comes from the Consumer Product Safety Commission, where, Alicia Mundy of the *Wall Street Journal* reports, "Bush administration officials, in their last weeks in office, are pushing to rewrite a wide array of federal rules with changes or additions that could block product-safety lawsuits by consumers and states."

> One reason that we have come so close to becoming a nation of Gordon Gekkos is our high priest, the psychiatrist.

Most of these agencies have been led by deregulatory zealots who have demoralized their good employees, causing many of them to resign and leaving behind agencies desperately in need of an infusion of quality people. In some agencies, like the SEC, an industry-friendly leader like Christopher Cox exacerbated a cultural tendency to indulge buddies who had gone into the securities industry. Thus, in the fall of 2007, David Nelson, the head of the SEC's Miami office, called a pal at Bear Stearns to tell him that "Christmas is coming early." Nelson would be shutting down an investigation into Bear Stearns—an investigation that would have discovered whether the firm had, according to the *Wall Street Journal*, "improperly valued complex debt securities." As we all found out too late, this was a sin that Bear Stearns had in fact committed (as Dick Cheney would put it) big-time.

In the old days there was at least a smidgen of honor in the revolving-door relationship between SEC staff and the agency's alumni on Wall Street, with the classier fellows trying to persuade their new employers to follow the rules. Unfortunately, that honorable tradition is in sad decline.

## Reform now, reshuffle later

One suggestion I would make to the new president is that he reform the SEC before he merges it, as many critics are urging, with other regulatory agencies. Recall the Homeland Security merger, in which the Immigration and Naturalization Service was merged with other agencies. It was bad before the merger, and the merger hasn't helped. It's still bad. "Illegal immigrants," report Nick Miroff and Josh White of the *Washington Post*, "stay in the country far longer than they should because of a detention and deportation system beset by waste and dysfunction."

## *You* try to live off of only $750,000

Sometimes journalists seem to identify with Wall Street's self-pity. Thus Andrew Ross Sorkin of the *New York Times*, describing how no bonuses at UBS last year exceeded $750,000 in cash, went on to observe: "That is still an extraordinary amount of money, but given the costs built into many bankers' lives— mortgages, private school and so on—the money can quickly run out." $750,000 quickly runs out! Remember, we're talking not about basic salary, but about a bonus added onto it. Why, one might ask, should the mortgage have to be so big? And why is private school assumed to be essential?

## Tell me about your tailor ...

It amazes me how so many journalists have come to identify with the upper class, feeling that private school is essential for their kids. And have you noticed how many of the male journalists you see on television are wearing custom-made suits? It used to be that every suit in the newsroom was right off the rack, and usually from a store of absolutely no snob value. As for the female television reporters, I would suggest that more than a few of them who made fun of Sarah Palin's wardrobe from Saks Fifth Avenue and Nieman Marcus are wearing similar labels.

For that matter, how have so many people in the whole country gotten into the mindset that requires private schools and custom-made suits, not to mention houses pricey enough to require big mortgages? I suspect one cause may be found in our high priest, the psychiatrist.

You could see it coming in an article that E. Fuller Torrey wrote about his fellow psychiatrists in this magazine twenty years ago, in which he described his profession's distaste for charity or pro bono work or anything that didn't pay hard cash. Now comes news from Gardiner Harris of the *New York Times* that one of the nation's most influential psychiatrists, Dr. Charles Nemeroff, earned more than $2.8 million in consulting fees from drug makers, violating federal rules requiring researchers to disclose conflicts of interest. Just one example of Nemeroff's excesses: he promised his research institution, Emory University, that he would earn less than $10,000 a year from GlaxoSmithKline. On the very day he made that promise, "he was at the Four Seasons Resort in Jackson Hole, Wyo., earning $3,000 of what would become $170,000 in income that year from that company."

Nemeroff is far from being an exception among psychiatrists. Dr. Melissa DelBello told University of Cincinnati officials that she received $100,000 from eight drug makers from 2005 to 2007. But then it developed that she'd gotten $238,000 in that period from just one company, AstraZeneca. Still, she was a piker compared to Harvard Medical School's Joseph Biederman and Timothy Wilens, each of whom took in more than $1.6 million from drug makers between 2000 and 2007. The newly elected president of the American Psychiatric Association, Alan Schatzberg, has $4.8 million in stock holdings in a drug development company.

So if you ever wondered who taught Gordon Gekko, Michael Douglas's character in *Wall Street*, to proclaim that "greed is good," his shrink should be high on your list of suspects.



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## Good timing, too

As an antidote to the culture of greed, the example of Michelle Obama's brother Craig Robinson is edifying. He had been on the typical Gordon Gekko career path, working at Morgan Stanley Dean Witter and owning a Porsche 944 Turbo and a BMW station wagon. Unlike so many of his contemporaries, however, he woke up: "I've got all this stuff, and it hasn't made my life any better." In his late thirties, writes Liza Mundy in her new book about Michelle Obama, Craig "left investment banking for a job he loves, coaching basketball."

## Bubble trouble

The tendency of the Washington press corps to live in the same bubble as the White House means that they focus too much on what is happening in the show that's playing on the Washington stage. By contrast, they pay far too little attention to what is happening outside the Beltway, to the problems the average man encounters every day and to the needs of the nation that Washington should be facing.

One way to step out of the Washington bubble is to read the Metro section of the city's papers, which describe the real problems faced by people in Virginia, Maryland, and the District. I also regularly read my hometown paper, the *Charleston Gazette*, and when I'm out of town I make a point of trying to read the local paper wherever I am. And, as *Monthly* readers know, I rely on my son, Chris, to rub my nose in the problems he encounters as a high school teacher in San Bernardino, California.

## We'd hire you, Ms. Nightingale, if you had a PhD

The latest example of the kind of thing I learn from Chris concerns the shortage of nurses we've been hearing about for several years. Chris tells me that many of his students want to be nurses. Some are held back because they can't afford the college tuition, but many others who are admitted to college and can afford it are still unable to get into nursing programs, because there are not enough places.

Soon after Chris told me about this problem, I ran across a story in the *Gazette* about one Freda Price. She had been trained to be a nurse by the nuns at Charleston's St. Francis Hospital. Back then—she entered in 1949—the tuition for the three-year training program was eighty dollars. Students were also provided with uniforms and free room and board. Unfortunately, this kind of affordable hospital training no longer exists. It was abolished in an effort to upgrade the status of nurses by requiring their training to be part of a college program. But even though Freda Price didn't go to college, she has turned out to be skilled enough at her profession to have been named the state's "Nurse of the Year," not just once but twice.

There may have been some bad hospital nurse training programs, but there were also a lot that were very good. We had quite a few Freda Prices in the Peace Corps while I worked there in the 1960s, and they were first-rate. But the hospital-trained nurse is a dying breed, all because of the insane credentialism that has obsessed this country.

This credentialism also has a baleful effect on education, by judging teachers by their degrees and education credits rather than by their subject knowledge and classroom aptitude.

> The George W. Bush administration has presided over the greatest sellout of regulators to the regulated since regulation began.

## Science has shown that this cream will change your life

Cosmetic advertising has long been a kind of paradise for Madison Avenue—totally unregulated. Any claim can be made. Women desperate to enhance whatever nature gave them have been eager prey for even the most remotely plausible promises.

Endowing beauty products with an aura of science, reports Natasha Singer of the *New York Times*, is the latest fad. L'Oréal skin cream promises "cellular-level cleansing." And the Olay Regenerist face cream, women are assured, is based on "Aquacurrent Science," which "helps reverse the look of lines and wrinkles."

## Old government habits die hard

Here's another lesson for the new president in the culture of bureaucracy, this from Bob Woodward's *The War Within*. When Admiral William J. Fallon took over Central Command, he was dismayed to find how large a staff he had inherited. "Give me a breakdown," he asked. "How many are in my security detachment?"

"49."

"For what?"

"That's how it's been," he was told.

This explains much of the staffing at military and diplomatic posts as well as at old-line federal agencies. The new president needs to follow Admiral Fallon's examples and ask, "For what?"

## Corps values

As a member of the Peace Corps staff during the 1960s, I frequently found myself in awe of the dedication of the volunteers. Not all of them were saints, of course. Indeed, there were a few quitters and some so useless they had to be sent home. But I was reminded of the good volunteers by a recent story in the *Washington Post*. Officials in Washington had decided to withdraw the 113 volunteers in Bolivia because of the country's political instability. At a meeting of the group in Lima, Peru, after they had been withdrawn, half the volunteers indicated they wanted to return to Bolivia despite the danger. They were, however, strongly discouraged by officials. Still, at least fifteen have returned and are now hard at work at their old jobs. These people are part of a rare breed that I consider myself blessed to have known. WM

**Charles Peters** is the founding editor of the *Washington Monthly*.



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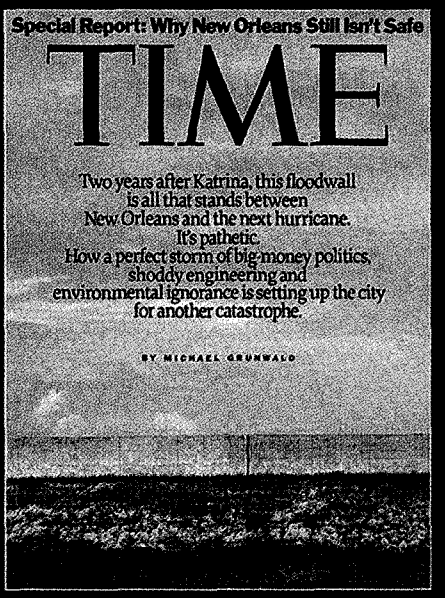


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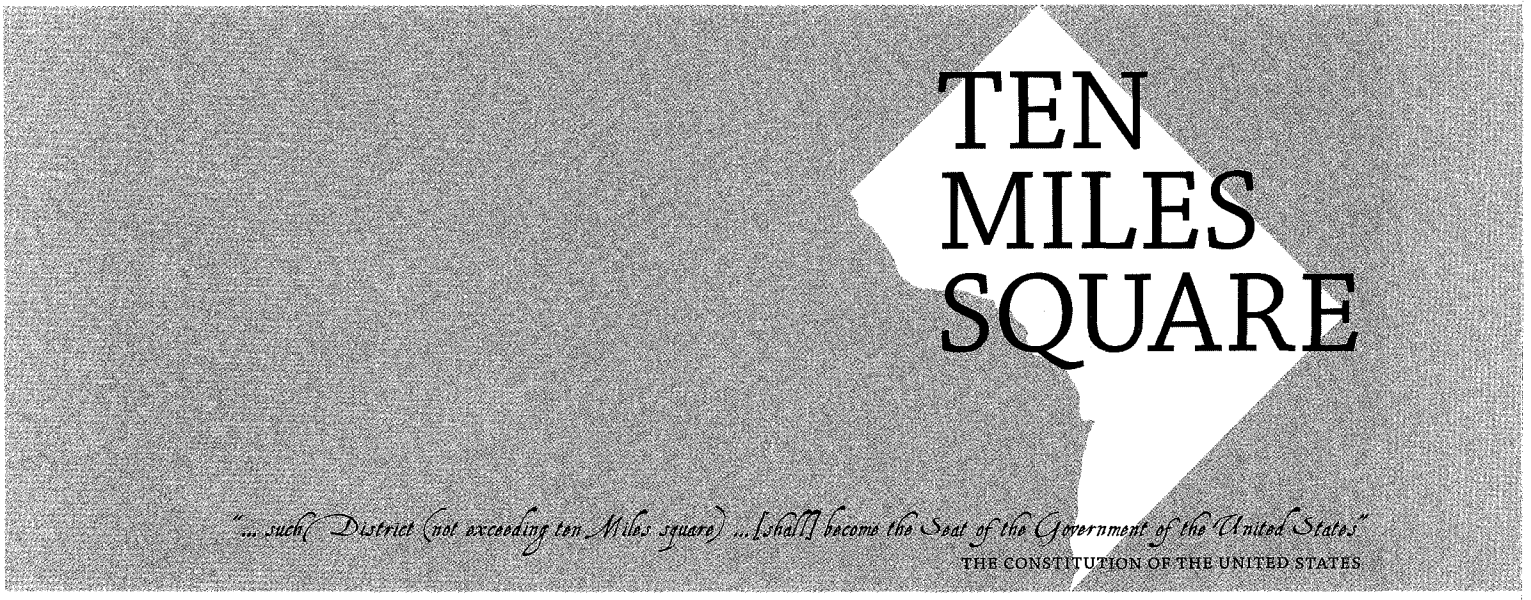


# The Big Night

## What Obama's victory looked like in Washington

By Charles Homans

Barack Obama's acceptance speech will always be inseparable in my memory from the rasp of a blown-out subwoofer. The sound came from the open window of a black Cadillac whose owner, surveying the impenetrable throng of people that clogged the intersection of 11th and U Streets in Washington's northwest quadrant, had accepted the inevitable. There is really only one thing you can do when faced with a happy mob: join it. The driver turned up the speech on the car radio, opened an umbrella against the warm rain, and got out onto the curb. A young woman was banging a pot against a light post and cheering until another woman quieted her down—she was trying to hear this.

The corner where we stood was once home to a locally famous mid-century nightclub called the Crystal Caverns, frequented by Duke Ellington (who grew up a few blocks away), Billie Holiday, John Coltrane, and Miles Davis, among others. The nearby intersection of 14th and U is better known, for grimmer reasons: it was there on April 4, 1968, that neighborhood residents gathered around transistor radios to hear reports of the assassination of Martin Luther King Jr. The riots that followed destroyed U Street for a generation, until gentrification began creeping into the neighborhood a decade ago. It is now a place where a black bourgeois past and present, black poverty, and white affluence rub against one another with often palpable awkwardness—except on November 4, shortly after 11 p.m., when the neighborhood's disparate populations stepped out of their apartment buildings and nightclubs, rubbed their eyes, and saw that for one night at least, they had one thing in common: they had all voted for the same guy.

I have no idea how many people were there. I know there were enough that the cars at 11th and U could barely inch through. Passengers reached out open windows to high-five pedestrians or stood with their bodies half out of sunroofs, whooping like high school seniors in a limo on prom night. Their headlights illuminated a shirtless black man jumping up and down between cars with an American flag. A semi truck was stuck in the middle of the crowd; behind the wheel, a burly middle-aged driver with a ruddy face and a walrus mustache, the kind of guy John McCain would've called Pete the Trucker, was loosing celebratory blasts of the horn and grinning while half a dozen kids hung off the sides of his cab.

I looked around the mostly young crowd for the few people who seemed old enough to have been there during the 1968 riots, and wondered what they could possibly be thinking right now. It felt wrong, in a way—a bunch of white college kids were overrunning what should have been



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**Super Tuesday:** Celebrating Barack Obama's election-night victory on U Street in northwest Washington.

their party. But a pair of women next to me on the sidewalk, one black and one white, were holding each other, transfixed by the celebration in the street, which didn't feel wrong at all. The drizzle became a downpour, and a clubgoer in her sequined finest leaned out the back window of a Mazda M3, craning her face upward into the rain. A girl in her early twenties threw her arms around me, kissed me on the cheek, and ran down the street.

*On November 4, the disparate populations of Washington's U Street stepped out of their apartment buildings and nightclubs, rubbed their eyes, and saw that for one night at least, they had one thing in common: they had all voted for the same guy.*

We walked to the White House. It wasn't far away, and it seemed like the thing to do. The crowd we met on 17th Street looked like they were in a nocturnal Fourth of July parade, but with no floats and a lot more drunk twenty-one-year-olds; by the time we reached 1600 Pennsylvania Avenue, the atmosphere had devolved into something like a goofy college party. "In Obama's America there will be no pants!" one of the kids shouted toward the White House. In front of a wary phalanx of police officers, they sang "The Star-Spangled Banner" and "God Bless America." A street musician sitting on a folding chair on the far curb played "Hail to the Chief" on a trumpet.

The energy of the throng had dimmed since we left U Street—not much, but perceptibly. Maybe it was because it was now pushing two in the morning, and everyone had been cheering for nearly three hours. But there was also something deflating about looking at the White House, the lights mostly off inside. It seemed like an awfully small building for all the expectations these people were going to pack into it on Inauguration Day.

But we could start dealing with all of that tomorrow. And we still had five hours until sunrise. WM

**Charles Homans** is an editor of the *Washington Monthly*.

Brandon Wu



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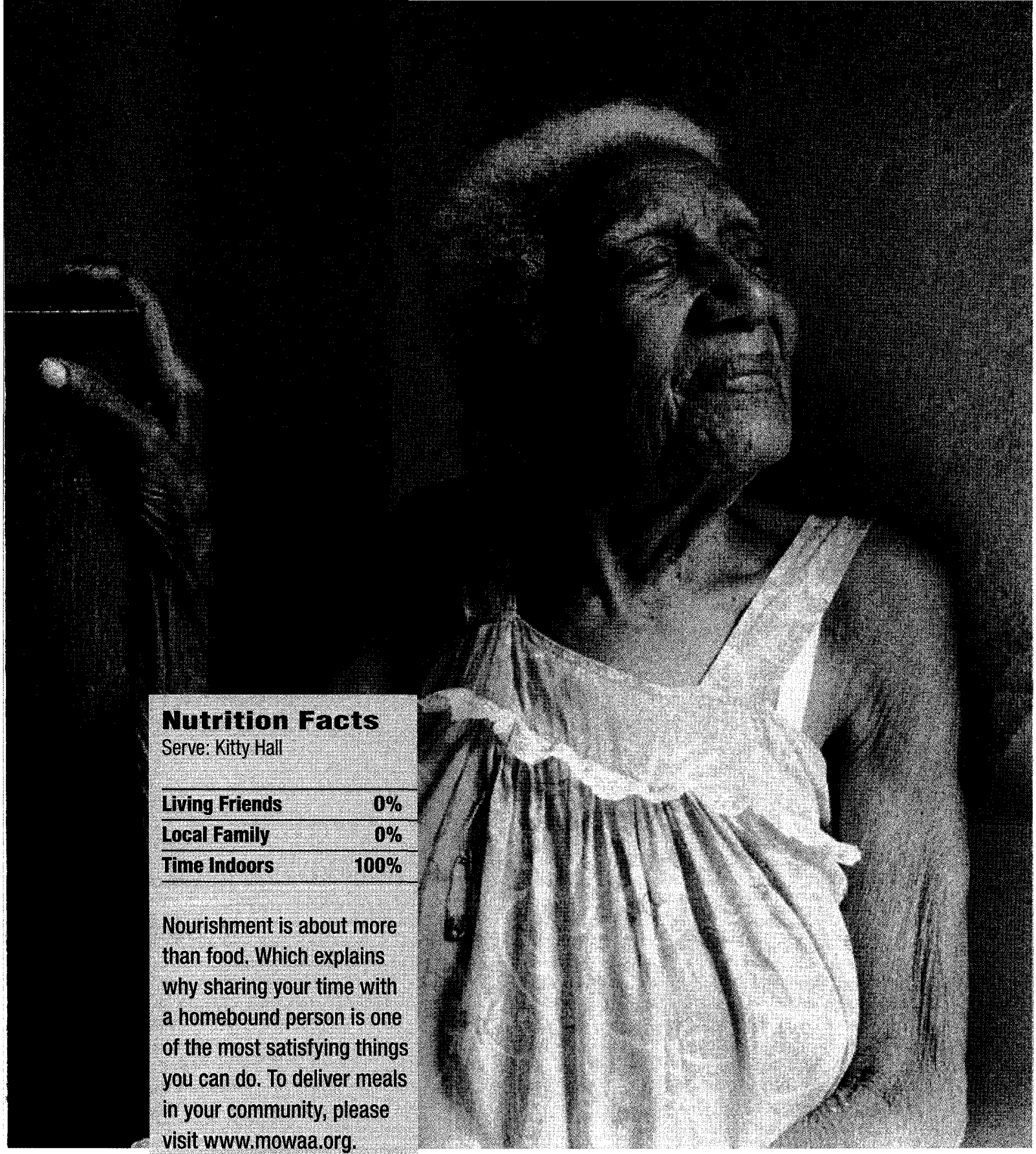

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Serve: Kitty Hall

| | |
|---|---|
| **Living Friends** | **0%** |
| **Local Family** | **0%** |
| **Time Indoors** | **100%** |

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# Too Small to Fail

## While the behemoths of Wall Street stumble and fall, humble local banks are doing just fine, thank you. Their surprising resilience holds a key lesson for twenty-first-century global finance.

By Phillip Longman and T. A. Frank

When Paul Hudson, the chairman and CEO of Broadway Federal Bank in Los Angeles, speaks of the current financial crisis, he sounds altogether placid. "It's going to be difficult, because everybody participated in this low-cost-credit, high-value-asset scenario," he says. "But I'm not overly stressed." It helps that his own bank is doing fine. Broadway Federal, founded in 1946 to provide loans to the growing African American community of Los Angeles, is a small institution with five branches located in middle-class, largely black neighborhoods of the city. It has eighty-four employees, assets of $390 million, and a loan portfolio divided more or less equally among single-family homes, apartment buildings, churches, commercial real estate, and small businesses.

Aesthetically, Broadway Federal's branches are more evocative of 1972 than of 1946—copious concrete, cheap terrazzo, fluorescent lights, clunky logo. But in 2008, an old-fashioned look—even one from the '70s—can be an advantage, for it suggests old-fashioned banking. While Broadway Federal may have been less adventurous or less profitable than some of its competitors over the past few years, today it enjoys the traditionalist's compensation of being both sane and solvent. In fact, according to data from the Federal Deposit Insurance Corporation, Broadway enjoys a substantially higher return on equity and assets than J. P. Morgan does. (It also has a lower proportion of nonperforming loans.)

Broadway Federal's story isn't exceptional. Easily overlooked amid the crisis of big banks today, small-scale financial institutions are, for the most part, holding steady—and sometimes even better than steady. According to FDIC data, the failure rate among big banks (those with assets of $1 billion or more) is seven times greater than among small banks. Moreover, banks with less than $1 billion in assets—what are typically called community banks—are outperforming larger banks on most key measures, such as return on assets, charge-offs for bad loans, and net profit margin.

One reason community banks are doing so well right now is simply that they never became too clever for their own good. When other lenders, including underregulated giants

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like Ameriquest and Countrywide, started peddling ugly subprime mortgages, community banks stayed away. Banking regulations prevented them from taking on the kind of debt ratios assumed by their competitors, and ties to their customers and community ensured that predatory loans were out of the question. Broadway Federal, for its part, got out of single-family mortgages when they stopped making sense. "A borrower comes and asks, 'Do you do interest-only, no-down-payment, option ARMs?'" recalls Hudson, with a chuckle. "No!" The bank focused instead on expanding its reach to niche borrowers, such as local churches.

Today, however, even as many financial institutions are refusing credit, Broadway Federal quietly continues to extend it. One recent recipient was a nonprofit called the Domestic Violence Center of Santa Clarita Valley, which needed $40,000 as a bridge loan in the midst of state budget hold-ups. Nicole Shellcroft, the executive director of the center, says that no large bank had been willing to lend the money. Under the terms worked out with Broadway Federal, though, the domestic violence center was given a three-month loan for a fee of $900 in interest. "Our board was really happy with the terms," says Shellcroft. "It was actually better than a line of credit." Beyond offering special loans, Broadway has been attracting customers by being accommodating and personalized. "I can proudly take in my money daily, deposit it, and get access to my money directly," notes Angela Dean, founder of DeanZign, a local fashion company. Dean recently switched over from Washington Mutual to Broadway Federal for her business checking. She's not alone. In 2007, before the crisis had properly struck, Broadway Federal experienced $7 million in net deposit growth. This year, as of June 30, says Hudson, net deposit growth was at $25 million.

Community banks come in different forms. Some are "country club" banks for the wealthy. Others are "community development banks," such as Chicago's South Shore National Bank, formed as part of an idealistic effort to serve the "unbanked" in blighted neighborhoods. And many, like Broadway Federal, are small-scale banks, credit unions, and thrift institutions, often with origins back in the Progressive era and earlier, when working-class men and women began pooling their savings together and making loans to one another in order to overcome the discrimination they faced from established banks. What all of these varieties have in common are a connection to a small geographical area and a personalized approach to customers. Whereas large banks rely on "transactional banking"—in which formulas and set calculations govern lending decisions—community banks rely on "relationship banking," in which all sorts of personalized considerations enter into the picture. This allows people like Nicole Shellcroft to secure prudent loans that might otherwise be out of reach. "That's what a community bank does," says Hudson, who is the grandson of one of the bank's founders. "It sits down with you and works it out."

Today, with the world's system of anonymous high finance in crisis, small-scale community banks, thrifts, and credit unions—all regarded until recently as vestigial players in a new world of global consumer finance—are setting an important example. If federal policies were in place to provide proper support to small-scale financial institutions, Washington could do a lot to alleviate the country's most serious economic problems: its lack of savings, its runaway consumer debt, its dwindling supplies of social capital, and its vulnerability to financial contagion brought on by Wall Street excess. By encouraging thrift, responsibility, and a sense of community, small-scale financial institutions could play a leading role in helping us dig out of this financial meltdown—and in helping to fend off the next one.

## Big Banks, Big Bust

For decades now, most experts have argued that in finance, bigger is better. With their economies of scale, larger institutions are more efficient, goes the reasoning. They can match up lenders and borrowers all about the globe, tapping into places where money is piling up (like China or the United Arab Emirates) and directing those funds to borrowers in places where money is scarce (like Stockton, California, or East Cleveland, Ohio).

*By encouraging thrift, responsibility, and a sense of community, small-scale financial institutions could play a leading role in helping us dig out of this financial meltdown—and in helping to fend off the next one.*

Such reasoning has held sway for a generation. The Monetary Control Act of 1980 made it easier for banks to merge, while also embracing a world in which middle-class Americans would put more and more of their savings into mutual funds and money market accounts. Another major change occurred in 1994, when large bank holding companies secured the freedom to set up branch networks outside their home states. Perhaps the biggest shift came in 1999, when (at the urging of Federal Reserve Chairman Alan Greenspan) Congress and the Clinton administration repealed the Depression-era Glass-Steagall Act, which had placed barriers between different kinds of financial institutions. After this repeal, commercial banks, investment houses, and insurance companies began to merge into complex, hybrid institutions that put ever-greater distance between borrowers and lenders.



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With the shift in rules, transactional banking started to replace relationship banking. Big institutions bought up many community banks and set up new branches and ATM networks across state lines. Consumers responded favorably to the convenience of having access to everything in one place—brokerage accounts as well as traditional savings vehicles—and to being able to bank wherever they traveled.

Many small financial institutions tried desperately to compete by getting bigger themselves, and more than a few succeeded. Meanwhile, those that stayed small faced increasing challenges. Enormous, largely unregulated institutions like Countrywide and Ameriquest—"non-bank" banks—were competing very effectively for customers. These behemoths raised their funds not from depositors, but from global capital markets, and, since they did most of their business over the Internet or through freelance mortgage brokers, they had minimal overhead. Exempt from the legal requirements to invest in the local communities that normal banks must honor, these institutions could easily have been seen as predatory. Instead, many people applauded how entities like Countrywide were "democratizing credit," long a goal of liberal public policy.

*Many ascribed the rise of big banks and global-scale finance to the logic of the market. Looking back, however, we can see that this new system wasn't so efficient after all, except in the sense of being very efficient at wasting the world's capital.*

At the same time, social attitudes subtly changed, thanks in no small measure to shrewd advertising. Mortgage originators like LendingTree ran TV commercials mocking the idea that a consumer would show personal loyalty to any one bank or banker. "When banks compete, you win," is the LendingTree slogan.

As transactional banking expanded, the market share of small-scale financial institutions shrank dramatically. In 1985, there were 14,000 community banks with inflation-adjusted assets of less than $1 billion. Today, their number is smaller by half. Many communities, especially those in urban America, have lost most or all of their local banks. Not only has this left people in many communities with no place to open a savings account or take out a small loan (aside from payday lenders), it has also dried up a critical source of lending to small businesses. (Community banks make nearly three times as many small business loans on a dollar-for-dollar basis as do large banks, according to the Federal Reserve.)

Until the current crisis, many ascribed such outcomes simply to the logic of the market. Looking back, however, we can see that global-scale finance wasn't really so efficient after all, except in the sense of being very efficient at wasting the world's capital. Throughout this decade, the world, if not America, became awash with savings. Rising energy prices created trillions of petrodollars, while America's continuing trade deficits left our trading partners with trillions more in surplus funds. All that money had to be invested somewhere. That somewhere turned out to be in complex and often nonsensical financial concoctions—most of them based on empires of McMansions and tract houses in remote, jobless suburbs. The easy money fueled more demand for imports, thereby keeping the global financial system in balance—until, that is, it imploded.

Today we can see that the world's surplus of capital could have been more profitably invested in just about anything else. (How much better to have borrowed money to repair our infrastructure, retool our industry, or promote sustainable energy!) When the going still seemed good, though, big banks took on more and more debt to stay competitive. By the end, Lehman Brothers was borrowing forty-five dollars for every dollar of its own that it was lending. Like a shark, it had evolved into a highly efficient predator that had to keep moving or perish.

Small financial institutions, by contrast, had neither the opportunity nor the incentive to imitate the large ones. Cushioned by their deposits, they could hunker down while the mortgage markets went crazy. This also meant they could get by if credit markets froze—as they eventually did. In community banks, both borrower and lender maintained a serious stake in the long-term outcomes of their transactions. For deposits, the banks kept relying on the same people to whom they made loans. Because the banks tended to hold on to their loans instead of selling them to distant investors, they took care to avoid granting loans to customers who couldn't repay them. Social pressure also helped to stave off predatory lending. When savers, borrowers, and lenders all live in the same community, lenders don't write loans that amount to financial crack. They know their business depends on their good reputation. Similarly, borrowers, who prize the good opinion of their neighbors, don't easily walk away from their loans.

In small-scale banking, then, borrowers and lenders can effectively see one another. They're rich with what Federal Reserve Chairman Ben Bernanke calls "informational capital," and this has a stabilizing influence. As savings-and-loan chief George Bailey tells his panicked depositors in the 1946 film *It's a Wonderful Life*, their money is safe because it's being loaned out to trusted friends and neighbors: "Well, your money's in Joe's house. That's right next to yours. And in the



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Kennedy house, and Mrs. Macklin's house, and a hundred others. Why, you're lending them the money to build, and then they're going to pay it back to you as best they can."

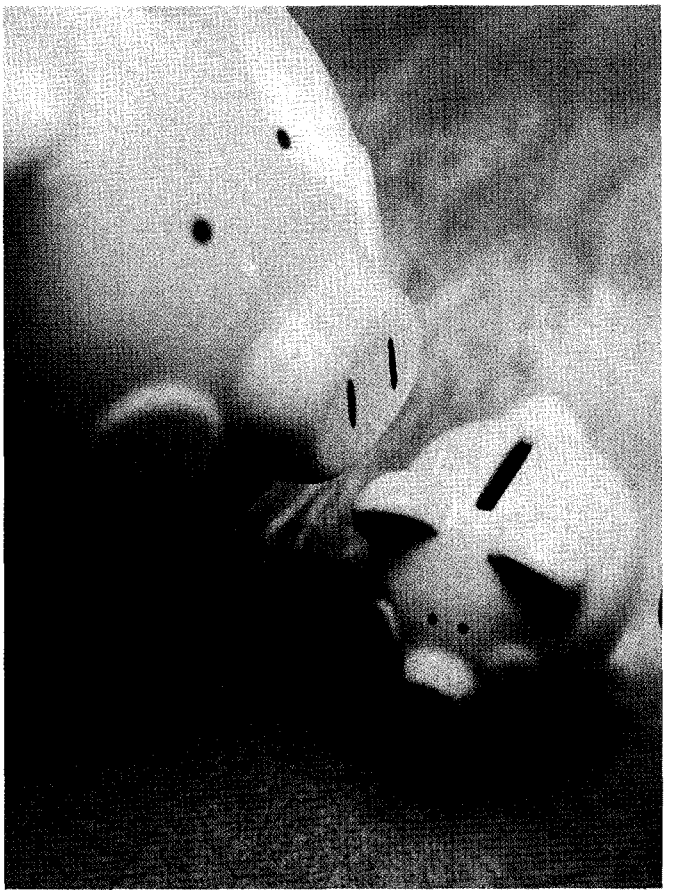
Having an abundance of informational capital not only helps to prevent bank runs, it also keeps default rates low (which is why, for example, faith-based credit unions can afford to offer payday loans at non-usurious rates). Lending based on character also becomes possible. The bright young man or woman with a strong business plan doesn't get turned down just for missing some lending formula ratio concocted in a faraway bank holding company headquarters by bureaucrats who know nothing of local conditions or the character of local customers. As one Federal Reserve report notes, "Locally focused community banks have a clear advantage at assessing the creditworthiness, and monitoring the ongoing condition, of small and medium-sized businesses. These loans are customized to reflect the idiosyncrasies of these borrowers and cannot be 'put in a box' for credit-scoring and securitization."

A healthy relationship between borrowers and lenders can have another important effect: promoting greater savings. Without easy access to global financial markets, small banks are heavily dependent on their depositors for capital. This means they have a financial incentive to inculcate thrift, as all banks once did before America began importing so much foreign capital. Older readers will remember "Thrift Week," an institution, sponsored by the banking industry and others, that started each year on Benjamin Franklin's birthday (until it petered out in the 1960s). They'll also remember how major banks used to offer customers promotional items like toasters for opening savings accounts and tried to inculcate thrift in youngsters through school banking programs. (And, indeed, some local banks in small communities still do this.) Before we began importing most of our savings, all banks needed customers who saved sufficiently and were not ruined by debt.

Naturally, being so closely tied to the fortunes of the community makes small banks more vulnerable to local downturns than large banks. But this isn't all bad, since it gives local bankers an interest in bringing their town's business community and civic groups together to solve common problems and find new ways to prosper. For community banks, community involvement is central. In a Grant Thornton survey of community bank chief executive officers conducted in 2001, almost all reported participating in civic groups (94 percent) or their local chamber of commerce (92 percent). More than half reported that their banks supported local relief efforts and special help to low-income segments of the community. Today, many parts of the country have lost their civically engaged local bankers, and this absence is strongly felt.

None of this is to say that small-scale banking is virtuous in every respect. In the past, if you couldn't form a good relationship with your community's bankers—perhaps because you were from the wrong ethnic group, or just unpopular with your neighbors—you were often out of luck. Community banks have frequently been clannish in choosing their customers. They have also been known to take in deposits from customers in poorer neighborhoods while reserving their loans for customers in richer neighborhoods.

But public policy can do (and already has done) a lot to ensure that community banks are investing in their own communities. For three decades before the current financial crisis, for example, the Community Reinvestment Act nudged banks large and small into lending in areas that were previously "redlined"—that is, avoided by banks. (Although conservatives have recently been eager to tar the Community Reinvestment Act as responsible for the current crisis, the contention is ludicrous. Numerous studies have shown that the overwhelming number of bad subprime loans were made by



Gary S Chapman

financial institutions not covered by the act.) Moreover, even without federal regulation, small-scale banking has always offered an opportunity for excluded groups to help themselves in the face of discrimination. In 1913, for example, there were more than 200 so-called "immigrant banks"—including fifty-five for Italians, twenty-two for Germans, sixteen for Poles, and six for Jews—in Chicago alone. Many such immigrant banks survive today and have since shed their exclusivity. Suburban Baltimore's Madison Bohemian Savings Bank no longer limits its loans to the Bohemian farmers of Hereford County—or even to Bohemians.



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## Taming Goliath

Perversely, even as Washington prepares to distribute rescue dollars, it is once again the big banks that stand to come out ahead. When the latest crisis shakes out, the United States may well be left with just three or four titanic entities that will not only be "too big to fail" but also excessively powerful, even if heavily regulated. Already, just three institutions, Citigroup, Bank of America, and J. P. Morgan, hold more than 30 percent of the nation's deposits and 40 percent of bank loans to corporations. Half of all Americans do business with Bank of America. Now, some of the big banks receiving "rescue money" from the Treasury report that they intend to use it to acquire smaller banks. Only if community banks are given a fair chance in this environment will Americans have proper, sober alternatives to being banked by Goliath. Otherwise, the distance between lender and borrower will only grow, creating even more problems in the future.

Under the Treasury's rescue plan, some healthy small banks have the chance to apply for infusions of publicly funded equity capital. But this is a temporary, emergency measure. For the longer term, we need to ensure that the small aren't devoured by the large and that the system as a whole remains balanced.

Community banks and credit unions don't need a bailout, but they could use support to deal with a few serious major challenges. First, predatory lenders—the worst of the mortgage brokers, pawnshops, payday lenders, and the like—must be shut down, so that space will be cleared for traditional financial institutions dedicated to thrift and long-term relationships. (When Washington, D.C., finally shut down payday lending, local credit unions saw an upsurge in business.) Second, and more urgent, small-scale financial institutions must have readier access to capital. That means having enough funds on hand to make loans that generate a modest but reasonable rate of return. Currently, community banks are experiencing an upsurge in deposits from Americans burned by losses elsewhere, but a robust community banking sector requires long-term funding, and deposit levels, by nature, fluctuate as individual customers move their money in and out of their accounts. The best source of the funding community banks need to make long-term loans is equity capital from investors. But most small banks are privately held, and lately, convincing investors to buy bank stocks is difficult.

*When savers, borrowers, and lenders all live in the same community, lenders don't write loans that amount to financial crack. They know their business depends on their good reputation.*

That's where Washington could come in. A "Community Bank Trust Fund" could be established to provide small-scale financial institutions that met certain federal standards—in terms of size and of level of investment in the local community—with equity capital. The trust fund could purchase preferred stock in institutions that were looking for capital to grow, just as Treasury's rescue plan is now doing for mostly large banks on a temporary, emergency basis. As with the Treasury plan, these funds would be at risk, but could also earn a healthy return for taxpayers if all goes well.

Instead of merely borrowing the money—as we are currently doing with the Treasury's rescue plan—we could do something more fiscally responsible: tax transactional banking. Specifically, we could impose a fee on the securitized loan transactions that are at the heart of the current crisis—and use the money to invest in the Community Bank Trust Fund. In other words, every time J. P. Morgan wants to bundle up a bunch of mortgages, credit card debts, and student loans, slice and dice them into impossibly complex derivatives, and sell the paper to unsuspecting investors around the world, it should pay a tax on the transaction, with the money going to support small-scale, relationship banking.

Certainly, no one wants special coddling or protection of small-scale bankers, eroding their competitiveness and spirit of enterprise. And there is, to be sure, a useful role to be played by properly regulated global financial institutions. But friendly policies aimed specifically at community banks would be a helpful counter to several decades of bias toward large institutions. As Paul Hudson of Broadway Federal says, "The point is, people should have a choice." They should also have a financial system that is more resistant to contagion of the sort now afflicting large banks.

Since the Progressive era and earlier, community banks, thrifts, and credit unions have served customers in a manner that has promoted community building and mutuality while also serving as a check against monopoly finance. Before the recent meltdown of the global financial system, singing the virtues of such small-scale banks might have seemed nostalgic and romantic. After the painful bursting of three financial bubbles in a decade, however, paying attention to those virtues is both essential and hard-headed. It's a vital first step as we attempt to recover from years of financial abuse and excessive faith in all things large. WM

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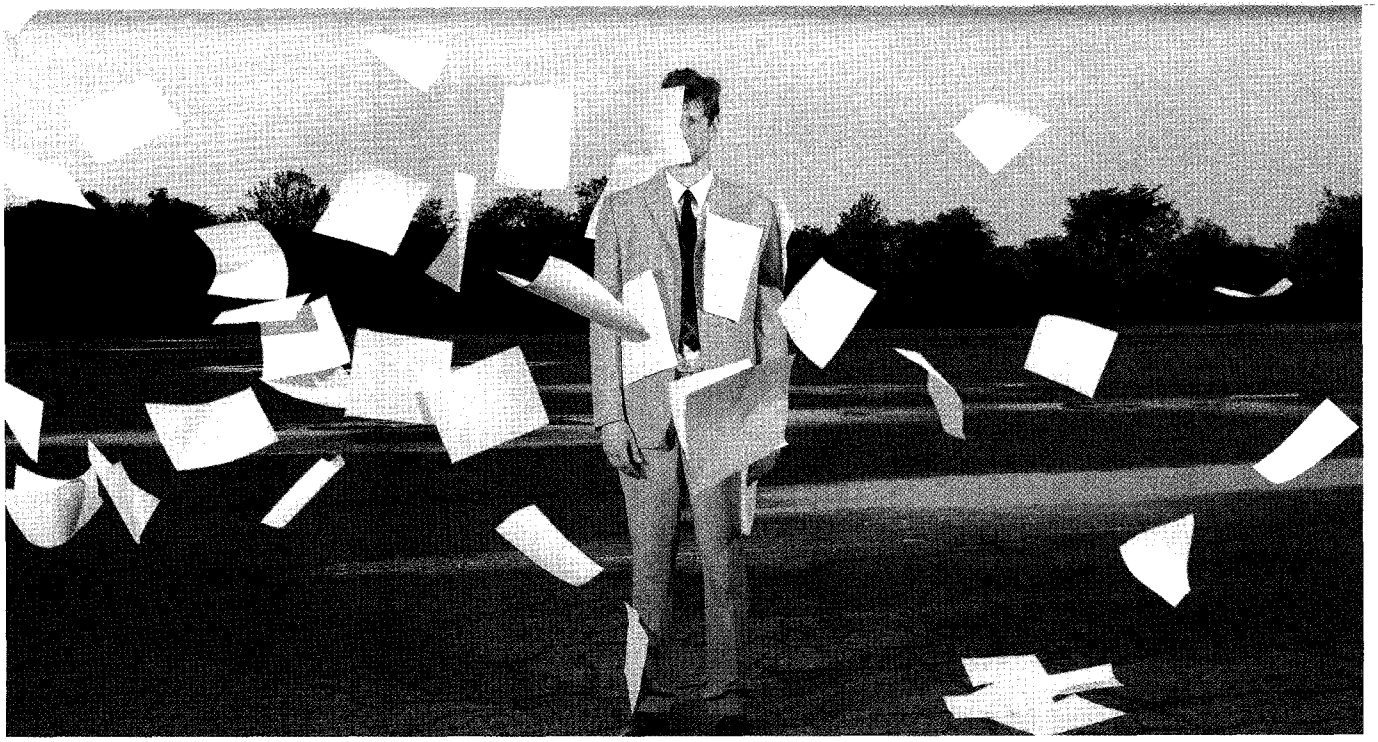

Thomas Jackson

# The Next FEMA

## Barack Obama must begin rebuilding federal agencies fast—or risk seeing his entire agenda undermined.

By John D. Donahue and Max Stier

Every two years the federal government conducts a "Human Capital Survey" of its own employees. Nearly a quarter of a million civil servants participate, providing anonymous, detailed, and often quite revealing answers to questions about their own agencies: What's the level of morale and teamwork? Do their skills match their missions? Do they have the resources to get the job done? How able and trustworthy are their leaders? Are high-performing employees promoted, and the lazy and incompetent shown the door?

When the answers to these questions are processed and released by the Office of Personnel Management they fuel some watercooler banter, and that's usually about it. Administration officials mostly ignore the results. Congress, which mandated the survey, pays little attention; the press, virtually none. The nonprofit Partnership for Public Service (headed by one of the authors of this article) uses the data, with some statistical refinements, to prepare a more detailed and accessible set of agency rankings dubbed "Best Places to Work in the Federal Government." But even this version is mostly inside baseball, discussed largely by civil servants themselves. To the average American, and even to most public policy mavens, what bureaucrats think about their bureaucracies is the very definition of dull.

Yet there's a reason why top private-sector companies conduct similar surveys of their employees: such data can provide precious insight into an organization's strengths and weaknesses, and an early-warning sensor for trouble ahead. Had anybody bothered to look at the results of the 2002 federal survey (released in 2003), they would have found that the cabinet agency ranked dead last was the Federal Emergency Management Agency. Inside a dusty control room, buried deep in the federal government's bureaucratic machinery, this warning light was blinking furiously. Few people noticed—until, of course, Hurricane Katrina hit two years later, and FEMA's feebleness was inside baseball no more.

Today, across our federal government, other warning lights are flashing. And if the president-elect and his team are wise, they will pay attention, because some of the most dysfunctional agencies happen to have jurisdiction over some of the most urgent challenges the new president is likely to face. Consider:

**Health care costs:** The president-elect has vowed to do something about the spiraling costs of health care. But he won't get far without reforming Medicare and Medicaid. Annual costs for these two programs have nearly doubled since 2000, to $624 billion. Official OMB projections, which may



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be unduly rosy, foresee them rising to $790 billion by 2013—more in one year than the entire multiyear tab for the financial bailout program that left Congress in a state of deep sticker shock. And because much of private-sector health care takes its price cues from the big public programs, especially Medicare, the quality of federal management in the health arena will exercise enormous leverage over the American economy in the years to come. The agency that manages these two programs is the Centers for Medicare and Medicaid Services, part of the Department of Health and Human Services. It ranks 186th out of 222 units within the various cabinet agencies in the Partnership for Public Service's latest rankings.

**Mortgage bailout:** Part of the job of cleaning up the mess caused by the mortgage crisis will fall on the Office of Thrift Supervision. It oversees federally chartered savings and loans, like Washington Mutual, whose demise in September was the biggest bank failure in U.S. history. Critics have accused the agency of ignoring questionable accounting at IndyMac, the high-flying California thrift, until depositors forced a federal takeover with a panicky run on the bank this summer. The Office of Thrift Supervision placed 192nd out of the 222 agency subcomponents in the Partnership for Public Service's rankings.

*Some of the government's most dysfunctional agencies have jurisdiction over some of the most urgent challenges the new president will face. The Defense Nuclear Detection Office, for instance, is charged with stopping terrorists from smuggling nukes into the country. It ranks 202th out of 222 in the government's human capital survey.*

**Airline safety:** The Federal Aviation Administration, which grounded thousands of flights this spring after agency whistleblowers went public with charges that they'd been discouraged from cracking down on maintenance problems at Southwest Airlines, ranks 204th out of 222.

**Weapons spending:** The Defense Contract Management Agency oversees about 18,000 private companies providing billions of dollars' worth of goods and services to the military. It is the lead Pentagon agency managing weapons acquisitions at a time when, according to the GAO, average cost overruns for weapons systems have steadily increased, from 6 percent in 2000 to 26 percent in 2007. It ranks 206th out of 222.

**Nuclear terrorism:** The Defense Nuclear Detection Office, which is supposed to make sure terrorists don't smuggle nukes into the country? Number 208 out of 222.

**Immigration reform:** The Bureau of Immigration and Customs Enforcement (formerly the INS), which polices the border and will manage any immigration reform measure that might emerge from the new Congress? Number 213 out of 222.

**Disaster preparedness:** And what about FEMA? Well, it's no longer dead last on the large-agency list. But that's because it's no longer *on* that list; instead of being a stand-alone agency, it's been merged into the Department of Homeland Security. On the list ranking departmental subunits, it's 211 out of 222. Unfortunately, Homeland Security itself is a mess, ranking second to last among large agencies.

We could go on, but you get the picture. The president-elect is about to take over a government with a few broken key components. Even some agencies ranking relatively high on the OPM survey, moreover, simply don't have the management and manpower in place to handle the daunting new missions coming their way. The State Department is in the top 20 percent, but experts worry that it is stretched too thin to orchestrate increasingly complex international relationships and shore up our battered reputation as Obama pledges to do. Experienced staff have been flooding out of the State Department in recent years; it now has roughly as many foreign service officers as the armed services have full-time musicians. The Treasury Department is at the middle of the pack, and no bureaucratic basket case. But a passing grade (on a generous curve) may not do the trick. Like State, Treasury has seen an exodus of some of its star staffers in the last few years. And now it is being tasked with untangling the monumental financial muddle that it took our sophisticated private sector a decade to create.

No president in recent memory has come into office with so many and such varied crises to deal with—from two intractable ground wars to a possible global recession—plus an ambitious policy agenda of his own, including passing and (the hard part) implementing universal health care. The president-elect can be forgiven for not wanting to spend precious time, energy, and political capital on the thankless, glamour-free chore of upgrading the capacity of federal agencies. Few of his predecessors, after all, made performance improvement much of a priority. Obama didn't break the federal government, and he has plenty of things he'd rather focus on than fixing it. Maybe it's not fair, but it's still a fact: if the president-elect waits until the rest of his agenda is well launched to worry about federal performance capacity, the rest of his agenda will never get off the ground.

Huge new federal responsibilities, stretched and sclerotic workforces, and fresh memories of the Bush administration's operational failures have combined, we believe, to make top-



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flight management a *political* imperative for the incoming administration in a way it has not been for previous ones. To put it bluntly: even with brilliant policy ideas and flawless political instincts, Barack Obama's administration is likely to fail if it doesn't reverse the erosion in federal capacity.

The federal government is basically a big, complex machine made up of *people*—about 1.9 million of them if you count just the career civil servants, millions more if you include the rapidly increasing ranks of private contractors doing Washington's work. Most federal employees work well outside the Beltway. Many are vastly able, deeply devoted, and heroic in their steadfast service. Some are simply incompetent. But all work within a system that has suffered from the cumulative damage of years of neglect alternating with waves of inconsistent and frequently ill-conceived efforts at reform.

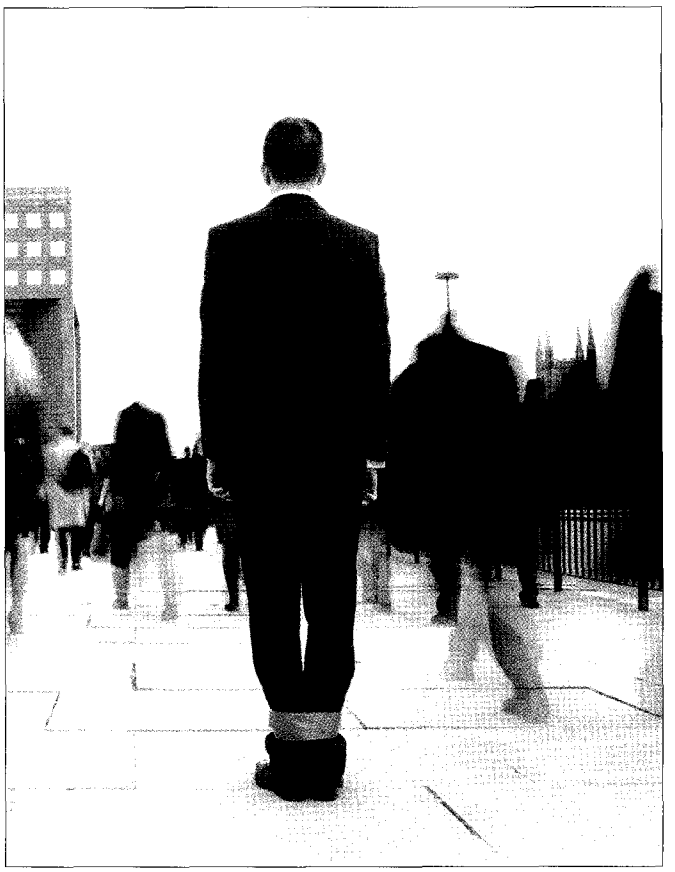
A big part of the problem is that government work has become segregated from the rest of the American economy. Beginning in the 1970s, the private-sector economy became more global, more diverse, more sophisticated, more technologically complex, and a lot more competitive. People endowed with native wit, education, ambition, and plain old luck discovered ever-wider opportunities and ever-richer rewards. Others fell behind. Laws, institutions, and habits that had constrained the highs and lows of working life—from collective bargaining rules to norms regarding executive pay—were swept away. Inequality increased, through boom and bust, until by the turn of the century the economic distances separating Americans were wider than they had been in living memory.

This didn't happen in government. Today's public sector mostly missed the transformation that swept over the rest of the working world. Government jobs still operate under the rules that defined the middle-class economy in the decades following World War II. Risk is dampened. So is opportunity. Rewards at the top are not all that different from those below. Nearly all workers, from the cabinet secretary to the cabinet secretary's secretary, earn middle-class salaries. Change is gradual. Layoffs are rare. Promotions come slowly.

Set aside the debate over which working world is better and which is worse. The point, for present purposes, is that they are *different*, and the difference undercuts government's capacity to create value. Government is not smart enough, because private alternatives drain away an ever-increasing share of the best people, and not supple enough, because workers sheltering in public employment's middle-class bastion quite rationally resist change.

In many European and Asian countries the high status of public service helps offset modest financial rewards. But in the U.S., decades of bureaucrat bashing have exacerbated the economic factors and driven away untold thousands of talented Americans who might have tolerated lower compensation if abuse hadn't been part of the package. Celebrating private enterprise and denigrating bureaucracy run deep in America's political DNA. Some recent administrations have viewed federal organizations and the workers who staff them with something approaching contempt. Others have made at least some efforts to improve how federal agencies operated. But it has been a long time since federal workers had a real champion in the White House. No president since John F. Kennedy (some would argue since Theodore Roosevelt) has been willing to spend much political capital to improve the human capital that constitutes the core of the federal government.

Almost all the incentives in Washington discourage tending to the operations and maintenance of executive branch agencies. New presidents enter office eager to drive their marquee campaign proposals through Congress, rather than to engineer performance improvements for some predecessor's signature program. This preference fits the bias of permanent Washington. Reporters, lobbyists, think tank analysts, and other Beltway denizens devote their attention to the major nodes of power—the White House, Capitol Hill, the Supreme Court—where laws and policies and regulations and rules are developed. The myriad federal agencies, where these elegant abstractions interact with the real world, largely escape notice except when things go wrong in some dramatic and readily comprehensible way—coal miners die in a preventable accident or secret documents are leaked to spies. But even then, the commentariat's indignant denunciations are usually couched in moralistic rather than managerial terms.



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The people best positioned to improve agency performance, at least in principle, are the political appointees the president puts in charge. In most agencies political appointees have far more formal authority and informal influence than even the most senior and experienced career bureaucrats. But incentives, again, don't line up on the side of reform. Presidential appointees parachute in for stints that average less than two years. Consequently, most aim to make their mark with quick wins—new programs, fresh policy initiatives—that show up in the media. Then they scramble back to private life to cash in on their upgraded reputation. Few stay around long enough to really understand the culture and processes of their agencies, much less transform them. And even if they want to make performance the priority, few have the management skills necessary to turn agencies around.

This, at any rate, has been the pattern in Washington for decades. But there are reasons to think that the new administration cannot—and thus, will not—continue its predecessors' tradition of ignoring the quiet decline in federal performance capacity. Eagerly or otherwise, it will need to attend to management and personnel.

*Barack Obama has made many promises, none more central than his pledge to "make government cool again." No president since John F. Kennedy has been willing to spend much political capital to improve the human capital that constitutes the core of the federal government.*

First, thousands of strong careerists are on their way out the door. A big cohort of unusually talented people signed up for federal service in the 1970s. In their youth, Kennedy gripped their souls with stirring words about public service. In their young adulthood, the Great Society and Richard Nixon's improbably activist administration created the kinds of challenges that make a job meaningful and fun. The compensation gap between public and private work was still narrow. Some of these stalwarts left as public service lost status, the pay gap widened, and excitement ebbed. But many were committed enough to the mission to stay on, and this group has kept the lights on in agency after agency in spite of high-level neglect. Now they're getting older, and heading for the exits at last. Roughly a third of the federal workforce is expected to leave in the next five years. The status quo in recruitment and management offers little hope of replacing them with anything like the same caliber of talent.

Second, the conventional wisdom that there's no payoff to sweating the management details and no penalty for ignoring them has been oversold. You only need to look at FEMA's trajectory to see why. In the George H. W. Bush administration, FEMA's reputation for incompetence was cemented by its calamitous response when Hurricane Andrew hammered Florida in 1992. The GOP's share of Florida's popular vote in the presidential election that same year was 41 percent, down dramatically from 61 percent four years earlier. Bill Clinton invested in turning FEMA around. He elevated the agency to cabinet status and entrusted it to James Lee Witt, a dependable ally and savvy manager who actually knew something about emergency management. In his reelection bid Clinton touted his record on disaster relief to reinforce his image as a new kind of Democrat, focused on results. Florida was one of the two states to flip to Clinton's column, and he *increased* his share of the vote in eight of the nine states that had been hit by catastrophic flooding in 1993. Bush the Younger's insouciance about FEMA management, the consequences for the people of the Gulf Coast, and the tipping point for the loss of Bush's public support is a story at once too familiar and too sad to repeat.

Third, the American public has had it, and they're not going to take it anymore. The electorate doesn't much care that the performance deficit has deep roots, or that previous administrations of both parties have failed to fix it. They're expecting Obama's administration to deliver the goods. Voters *want* government to be part of the solution. With the temple of free-market fundamentalism crashing down all around us, we're hungry for competence in public service. But we're not sure that we'll get it. A March 2008 survey by the AARP asked 1,400 Americans which issues they consider to be "very important." The issue cited most often, more than the economy, more than the war in Iraq, more than energy prices, was "government competence."

Before the drifting confetti is swept from littered ballrooms after the inaugural festivities, the realization will sink in with the new president (if he and we are lucky): he now owns this government. His agenda and his reputation are hostages to its capacity to perform.

So what can he do? There are actually some pretty good options. It's not that nobody knows how to fix what ails Washington; it's that previous administrations have been able to get away with lip service, window dressing, or desultory efforts. The next one can't. Here's what needs to be very near the top of the president-elect's to-do list:

**Appoint managers.** Not cronies. Not ideological soul mates. Not campaign stalwarts. Not even inspiring symbols, or soaring intellects, or wise old men and women. Nice



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if you can get those attributes as part of the package, of course. But the taste and talent for actually getting things done has to be the central criterion for senior hires. The president gets to fill roughly 4,000 posts with political appointees. He needs to pick people who know how to lead and manage. This imperative applies to all federal agencies, but especially to those obscure front-line operations—including FEMA, the Defense Contract Management Agency, the Office of Thrift Supervision, and other outfits currently on the skids and too long treated as backwaters.

**Hold leaders accountable for managing well.** Political appointees can't be expected to treat management and workforce issues as top priorities unless they are convinced these are the *president's* priorities. Obama has to signal clearly, early, and often to his political appointees that making long-term improvements to basic government operations is a central part of their jobs. Once they see that their peers really are celebrated for managing well, and sanctioned or replaced for letting management slide, they'll get with the program—most of them quite happily. The president should appoint one of his most trusted and talented and relentless supporters to head the Office of Personnel Management, to provide day-to-day reinforcement for this mandate. But he also needs to drive home, to his entire leadership team, that in the Obama administration management drives mission and policy hinges on personnel.

**Fix the workforce.** The president can't succeed without top-flight managers, but even the best managers can't win without reversing the decay in the federal workforce. Obama needs to review the long list of sensible reform ideas that previous administrations considered but lacked the will, nerve, or political capital to enact. Then he needs to decide which ones he's willing to fight for, and push hard to make them happen within the first year, early enough for the reforms to do his administration some good. Our favorites include: lowering hurdles to lateral entry so that experienced workers (including mid-career baby boomers hungry for work with meaning) can serve a stint in Washington; making compensation more market sensitive and performance based; getting smarter about sorting out federal tasks between employees and contractors; and creating an ROTC equivalent for the civil service. Maybe most importantly, Obama needs to use the bully pulpit to restore the prestige of public service, and to inspire a new generation of the best and brightest to serve at a moment when their country so urgently needs them.

**Focus on performance.** Since it's hard to improve what you can't measure, creating reliable and action-oriented performance metrics is key to making Washington work better. The Clinton and Bush administrations each made some efforts at performance management, but the new team needs to push this much harder. And brace for criticism, some of it likely to be deserved. There are plenty of stupid ways to measure and motivate performance. Indeed, just about every dumb idea—murky goals nobody can measure, crisp metrics that miss what's valuable, sloppy or abusive systems that invite game playing, too much focus on material rewards and penalties—has been tried by some government somewhere. But that's actually good news for Obama. We're starting to get a decent sense of the best way to shape and apply metrics. Performance management is mature enough for a smart administration, committed to creating value for the citizenry, to actually implement.

*Obama has to signal early and often to his political appointees that improving basic government operations is a central part of their jobs. Once they see that their peers are celebrated for managing well, and sanctioned or replaced for letting management slide, they'll get with the program—most quite happily.*

Barack Obama made many promises during his campaign, a large number of them inspiring and a few perhaps silly, but none is more central to the hopes of his presidency than his pledge to "make government cool again." Here's hoping that this is a promise the new president keeps. It would trigger an influx of top talent that our government hasn't seen in years, while unleashing the latent potential of current employees. Better performance will bolster public support, boosting the odds of getting Congress to stick with the Obama agenda even after the honeymoon ends. Can this administration, in these parlous times, meet or maybe even exceed expectations? If it takes its inherited performance problem seriously enough, and early enough, then—with a little bit of luck—yes, it can. WM

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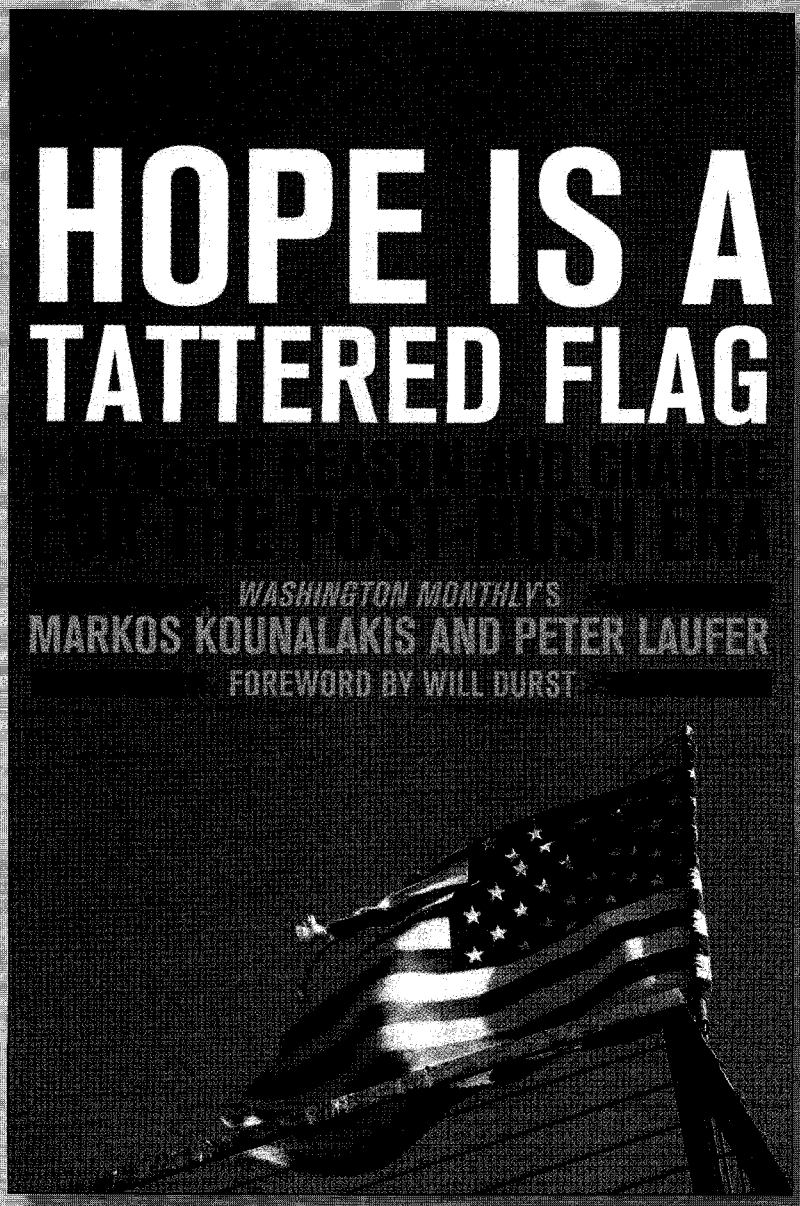


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# Last Secrets of the Bush Administration

## HOW TO FIND OUT WHAT WE STILL DON'T KNOW

By Charles Homans

Getty Images

In March 2001, U.S. Archivist John W. Carlin received a letter from Alberto Gonzales, then counsel to the newly inaugurated president George W. Bush. It concerned an important deadline that was looming—one that Bush owed to Richard Nixon.

In 1974, Congress ordered a lockdown on all records kept by the Nixon White House, afraid that the outgoing president would try to wipe out the paper trail of his disastrous second term and chastened by the recent destruction of decades' worth of FBI files by the late director J. Edgar Hoover's loyal secretary. That order was expanded four years later into a law requiring that all presidents' papers—everything from briefings to personal notes and everyday communications between the president, vice president, and their staffers—be handed over to the National Archives twelve years after their terms ended for eventual public release. Ronald Reagan was the first chief executive to whom the Presidential Records Act applied, and his papers were due to be turned over to Carlin at the beginning of Bush's term.

Gonzales wanted Carlin to delay the release until June. His letter didn't say why, but Carlin agreed. Then in June, Carlin got another memo from Gonzales—Bush's attorney now wanted until the end of August. Carlin agreed again. The extensions continued until November, when Bush issued an executive order: effective immediately, the release of presidential records would require the approval of both the sitting president *and* the president whose records were in question, rather than just the former. It was what open-government advocates would later describe as a two-key system: under Bush's rule, Nixon could have buried the Watergate tapes without explaining himself to anyone.

Bush's executive order had little to do with any concerns of Reagan himself, whose estate has since shared his papers enthusiastically. Some administration critics theorized at the time that Bush was trying to shield from scrutiny his father's vice presidential records, which were among the Reagan White House documents—but ultimately it wasn't really about George H. W. Bush, either. It was about the new president and vice president, and the



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kind of government they intended to run. Bill Clinton's White House had been relatively obliging in matters of secrecy, handing over millions of pages of documents—down to the White House Christmas card list—when Congress demanded them. Things would be different under Bush. "I think they thought Clinton was too open, had caved in to Congress too much," Carlin says. "It was a different philosophy."

Gonzales's March 2001 memo was the opening salvo in a war over information, one that began in the earliest days of the Bush administration and will continue beyond its end. The stakes, which no one could have predicted when the letter crossed Carlin's desk, are now self-evidently enormous: when Bush hands over the keys to the White House in January, he will leave behind more unanswered questions of sweeping national importance than any modern president. We still do not know how intelligence operatives, acting in the name of the United States, have interrogated suspected terrorists, and how they are interrogating them now (see page 31). We do not know how many Americans' phone calls and e-mails were scanned by the National Security Agency (see page 34). We do not know—although we can guess—who ordered the firings of the U.S. attorneys who didn't comply with the Bush administration's political agenda, and we do not know who may have been wrongly prosecuted by those who did (see below). There are large gaps in our understanding of the backstories to everything from pre-war intelligence in Iraq to the censoring of scientific opinion at the Environmental Protection Agency and the Department of the Interior. And those are the things we *know* we don't know—there are also what Donald Rumsfeld might call the unknown unknowns.

The thought of revisiting this history after living through it for eight years is exhausting, and both President Barack Obama and Congress will have every political reason to just move on. But we can't—it's too important. Fortunately, an accounting of the Bush years is a less daunting prospect than it seems from the outset. If the new president and leaders on Capitol Hill act shrewdly, they can pull it off while successfully navigating the political realities and expectations they now face. A few key actions will take us much of the distance between what we know and what we need to know.

# POLITICIZATION OF JUSTICE

**What we know:** After the 2004 elections, someone in the White House asked Kyle Sampson, Attorney General Alberto Gonzales's chief of staff, to secretly investigate ninety-three U.S. attorneys to determine the extent of their loyalty to the Bush administration. In November 2006, Sampson e-mailed a list of nine attorneys who fell short to White House counsel Harriet Miers, her aide William Kelley, and Deputy Attorney General Paul McNulty. The attorneys are believed to have been on the list because they had been unwilling to pursue voter fraud cases against Democrats, had investigated bribery charges against Republicans too doggedly, hadn't pushed hard enough for capital punishment, or—in the case of one Arkansas prosecutor—were simply occupying a position that one of Karl Rove's disciples wanted. On December 7, they were asked to resign.

**What we don't know:** Who put the names on the initial list. E-mails between Sampson and White House staffers indicate that Karl Rove's fingerprints were on the firings, but who else may have been involved is unclear. And while there are plenty of allegations as to why the names were on the list, we don't know for sure in most cases. The firings were also part of a much broader pattern of politicization of the Justice Department, the extent and implications of which are still not fully known. We do know that career employees were in many cases vetted for their politics, which raises a host of other questions: How many people currently working in the DOJ are there for purely political reasons? To what extent were voter registration fraud investigations, like that into ACORN's registration activities this year, driven by the White House? If U.S. attorneys were under direct pressure from the Bush administration to aid in partisan goals, how many individuals did they prosecute for political reasons? And are there any ongoing investigations that are politically motivated?

**How we can find out:** The Bush administration can't claim any national security justification for covering up the events at the DOJ, so in the past year and a half Senate and House committees, as well as DOJ Inspector General Glenn Fine, have been able to produce voluminous reports on the firings and politicization. We probably know more about them than any other scandal. But getting the answers to the remaining questions requires the truthful testimony of key witnesses, such as Miers and Rove, who so far have refused to offer it, and certainly won't be willing to before January. It may be that the special prosecutor appointed by Attorney General Michael Mukasey in September will produce damning testimony, and Congress should be vigilant in seeking the eventual release of the grand jury transcripts that the investigation collects.



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## TREAT THE NAVAL OBSERVATORY LIKE A CRIME SCENE

Three months after Bush issued his presidential records order, a Justice Department attorney named Anne Weismann stood in front of Judge Emmet Sullivan in Washington's district court. Weismann was defending Dick Cheney's refusal to hand over the records from the energy task force meetings he had convened the previous year, which had prompted a lawsuit by the conservative legal group Judicial Watch and the Sierra Club. Sullivan was irate. "I get the feeling the government's underestimating the seriousness of this case," he told Weismann.

Weismann had been a Justice lawyer for twenty years, and had appeared often in Sullivan's court. But this case was different. "I've never seen him that angry—he wouldn't even let me talk," she recalled recently. The encounter made her rethink what she was doing. Weismann still believes that there were limited legal arguments to make in defense of keeping the energy task force records secret. But what drove Cheney was something bigger. The case would ultimately wind its way to the Supreme Court, after Cheney's legal team claimed to Sullivan that executive privilege meant the White House didn't have to hand over *anything* to the courts if he didn't feel like it. But by the time the Supreme Court ruled in Cheney's favor, Weismann was no longer representing the vice president. The day Sullivan read her the riot act in district court, she says, "was the point at which I said, 'I have to stop doing this.'"

Weismann told me this story in mid-October, in a McPherson Square office suite belonging to the watchdog group Citizens for Responsibility and Ethics in Washington (CREW), where she is now chief counsel. The floor of her office was half obscured by rows of accordion folders full of papers. Among them were the briefs for a case she is now litigating against her old client, Dick Cheney.

In September, CREW sued Cheney to preempt any attempts he might make to destroy or remove the records of his vice presidency when he left office. The suit was prompted by a bit of fine print Weismann had noticed in Bush's November 2001 executive order instituting the two-key system. The administration's lawyers had written that the Presidential Records Act applied only to the vice president's "executive records." Weismann realized that this subtly narrowed definition could exclude many of Cheney's most important papers, including his personal files and any records of his work on the National Security Council and as president of the Senate. "There were all these holes," she says.

A growing body of investigative reporting and memoirs by Bush White House insiders-turned-dissenters suggests that most of the administration's most controversial national security decisions—on wiretapping, the Iraq War, and renditions—originated in the Office of the Vice President, hashed out by Cheney, vice presidential counsel David Addington, and aide I. Lewis "Scooter" Libby. Cheney's papers are the Amazon rain forest of Bush administration records: they are of immense importance to the big picture, and there is a real risk that they will be lost before we know exactly what's in there. If there is one overarching priority between now and January 20, it is to surround Cheney's office with every possible legal barrier to removing so much as a Post-it Note from the premises.

Of course, what's there will not tell us the entire story. The Bush administration's obsession with secrecy is often compared to Nixon's, but the two are qualitatively different. Nixon was compulsively secretive, and was ultimately undone by his contradictory obsession with record keeping. Cheney, by contrast, is systematically secretive, a habit he acquired as Gerald Ford's chief of staff in the post-Watergate years. "I learned early on that if you don't want your memos to get you in trouble someday, just don't write any," the vice president said in a speech last year at Ford's presidential museum in Grand Rapids, Michigan. (Libby, a meticulous diarist, learned a similar lesson the hard way at the hands of special prosecutor Patrick Fitzgerald.) But even as careful an executive as Cheney would have trouble running an administration completely devoid of written communication. Unless they have been destroyed already, his office's records are likely at least to include e-mails among lower echelons of staffers reflecting the dictates from the vice president's inner circle: Cheney's electronic shadow.

> The thought of revisiting the Bush administration's worst excesses after living through them for eight years is exhausting, and both President Obama and Congress will have every political reason to just move on. But we can't—it's too important.

The records of the White House are also uniquely vulnerable. They are in the hands of administration loyalists, and won't stay in the building when Obama takes office. Preserving these documents as public records, even if we can't read them for twelve years, is our most pressing concern.

## DECLASSIFY, DECLASSIFY, DECLASSIFY

Fortunately, most administration paperwork can be found in department and agency files, and will be available imme-



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diately after Bush leaves office. "While the White House can keep many of its internal deliberations secret, it will not be able to conceal anything that was actually implemented in policy," says Steven Aftergood, the director of the Federation of American Scientists' Project on Government Secrecy. Much of that material is now classified, and pressure should be brought to bear on the Obama administration to make sure that as little as possible of it stays that way.

It's the nature of all presidential administrations to overclassify, and some of the Bush administration's gratuitous secrecy falls into this relatively innocent category. But the administration's higher-ups also used national-security-justified secrecy for political purposes on a regular basis. Relevant offices within the Justice Department were excluded from discussions about wiretapping and torture for expediency's sake, and White House officials who believed in an unfettered executive could use classification to keep the legislative branch from questioning policy. "This was the first time I have seen what I regarded as deliberate decisions, made at the highest of levels, to exploit the classification system, not for reasons of national security but for bureaucratic infighting—to keep people from weighing in," says J. William Leonard, who ran the National Archives' Information Security Oversight Office—the office that reviews the federal government's classification decisions—from 2002 to 2008, after thirty years of classification work in the Defense Department. The decision to bury the previously independent Federal Emergency Management Agency under layers of Department of Homeland Security bureaucracy—a factor in FEMA's slow response to Hurricane Katrina—was made without public debate. Although huge swaths of information about Guantánamo Bay detainees remain classified, government prosecutors have often backed off their most serious charges in court cases where evidence has had to be made public, suggesting that much of that is secret for political reasons as well.

> Dick Cheney's papers are the Amazon rain forest of Bush administration records: they are of immense importance to the big picture, and there is a real risk that they will be lost before we know exactly what's there.

When Obama takes the reins in January, he will inherit the same bureaucratic apparatus Bush used, and with it the records of how he used it. This is the best opportunity for the new president to shine a light on the past eight years with the stroke of a pen. He should direct the government's inspectors general to undertake exhaustive, top-to-bottom audits of the classified documents their agencies have produced under Bush, declassifying and releasing everything for which secrecy isn't of demonstrable national security interest.

One specific trove of documents is a priority: the records of the Department of Justice's Office of Legal Counsel. The OLC is the executive branch's legal sounding board—the president asks its staff whether something he or she wants to do is legal, and the OLC sends back an opinion explaining why or why not. OLC lawyers are in an unusual position, halfway between attorneys and judges. They give advice to the president, but that legal interpretation has a heft that gives government officials who follow it a degree of immunity—"what is effectively an advance pardon for actions taken at the edges of vague criminal laws," Jack Goldsmith, the head of the OLC from 2003 to 2004, wrote in his 2007 book *The Terror Presidency*. "It is one of the most momentous and dangerous powers in the government: the power to dispense get-out-of-jail-free cards."

All presidents encounter legal gray areas at one point or another, and it was inevitable that the Bush administration would find many in its prosecution of the war on terror. But Bush and Cheney used the OLC in a novel and troubling way: instead of helping the executive branch fine-tune its plans to fit the law, the Bush OLC fine-tuned the law to fit its plans. Bush did not invite Congress to authorize its extended wartime powers (and it surely would have if he'd asked), as did Lincoln and FDR. Instead, the administration used the OLC to create a body of secret law. Like-minded OLC lawyers like John Yoo wrote opinions justifying wiretapping, interrogation techniques, and—most importantly—Cheney's and Addington's long-held belief that the president could declare law simply by virtue of being the president: the ultimate extension of the "unitary executive" philosophy, and the legal backstop to all of the administration's power expansions.

Many of the most important of these opinions remain classified. (Senate Judiciary Committee Chairman Patrick Leahy issued a subpoena for some of them in October, but as of this writing it has yet to be honored.) The next president should make them public for several reasons. One is that we have little idea what the legal justifications were for the illegal wiretapping program and what they are now for the interrogation of detainees. If the opinions that have been released—which often hinge on citation-less assertions and dubious interpretations of precedent—are any guide, the secret ones may be flimsy; Goldsmith retracted several during his brief tenure in the office. And because OLC opinions carry over to the next presidency, they will guide Obama's actions until new opinions tell him otherwise.



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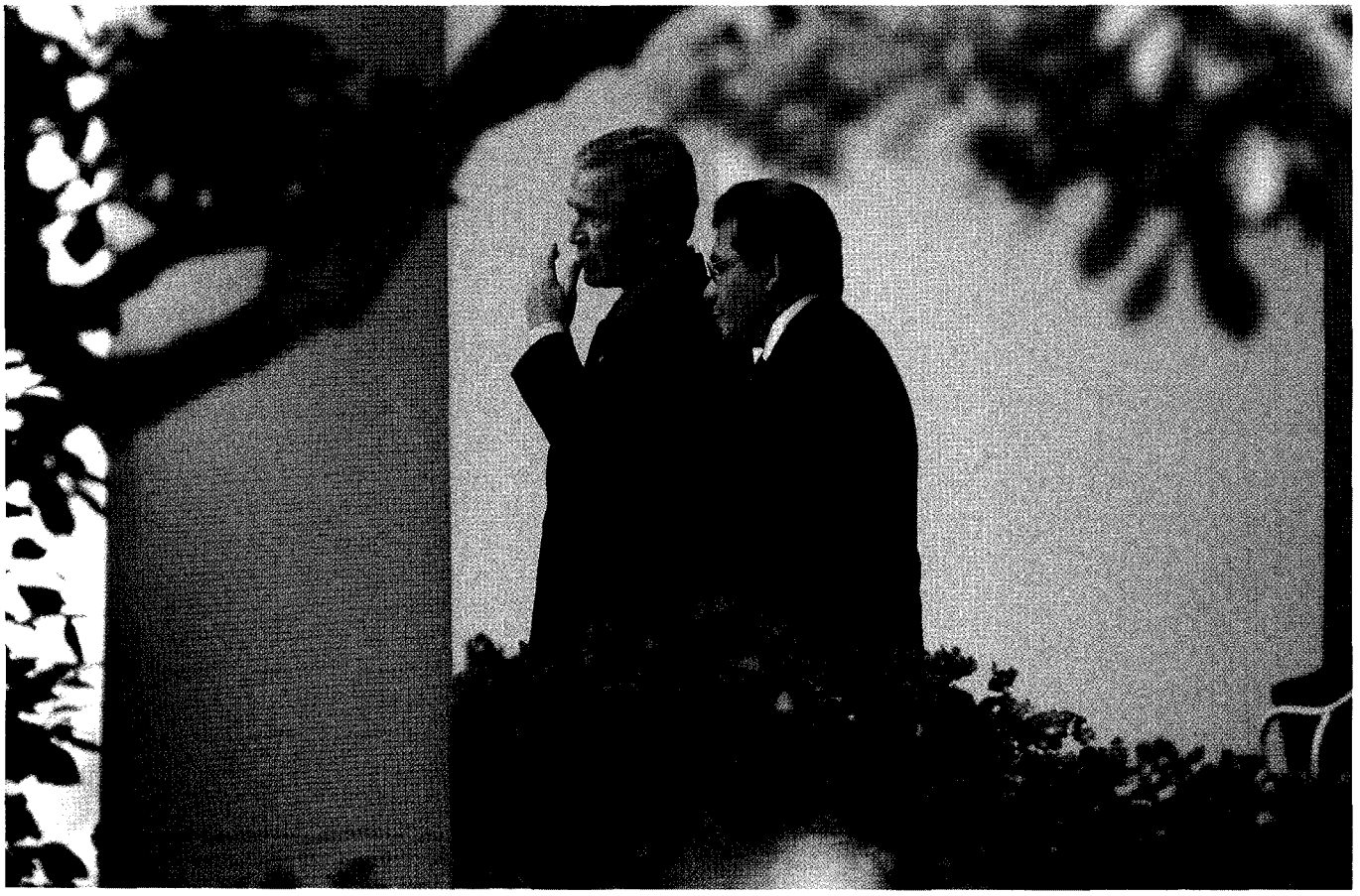
There are reasons to hope that Obama will be willing to release these documents. He has openly disagreed with the arguments made in some of the most controversial Bush OLC opinions, stating in an interview last December with the *Boston Globe* that he "reject[ed] the view, suggested in memoranda by the Department of Justice, that the President may do whatever he deems necessary to protect national security, and that he may torture people in defiance of congressional enactments." On his campaign's Web site he pledged to create a National Declassification Center aimed at restoring sensibility to executive branch secrecy.

But regardless of what they've said on the campaign trail, incoming presidents tend to be deferential toward their predecessors in the matters of records—they know they'll be in the same boat four or eight years down the road. Releasing and retracting the OLC memos is an even trickier proposition; the list of presidents who, if handed dramatically expanded executive powers, would voluntarily give them up is pretty short. Getting these concessions requires a combative Congress, which in the post-Gingrich era usually means a Congress run by a different party. It was easy for congressional Democrats to shake documents loose from Gerald Ford, a relic of a disgraced Republican administration, in 1975. It's doubtful they would take on an ascendant Democratic White House in 2009 with anywhere near the same vigor.

This, then, is a critical area in which both the Obama administration and the new Congress can earn our trust. If Obama wants to prove he really is a different kind of president, and if Congress wants to demonstrate in time for the 2010 elections that it can act tough alongside a Democratic executive, this is one way to do it.



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## FORGET THE SUBPOENAS

Prodding Obama to release documents isn't Congress's only responsibility—the heavy lifting in any serious investigative effort necessarily falls to the legislative branch, too. Executive branch investigations are usually worthless—remember the Rockefeller Commission? I didn't think so—and Obama has shown only lukewarm interest in mounting one. In April, he told the *Philadelphia Daily News* that while he would have his Justice Department investigate any evident criminal actions by the outgoing administration on the torture and wiretapping issues, "I would not want my first term consumed by what was perceived on the part of Republicans as a partisan witch hunt because I think we've got too many



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problems we've got to solve." Most importantly, oversight is supposed to be Congress's job. The problem is, that's easier said than done.

On an afternoon in mid-September, I visited Washington's E. Barrett Prettyman United States Courthouse, where many of the skirmishes of Bush's information war have been fought. The air in the fifth-floor courtroom was stuffy, and Department of Justice attorney Carl Nichols poured himself a glass of water. More than sixty people crowded the rows of seats behind him. As we waited for the panel of three circuit court judges to take the bench, it was quiet enough that you could hear the ice clinking in Nichols's thermos from the back of the room.

At issue was whether Harriet Miers, President Bush's former White House counsel, could be forced to testify under oath in front of the House Judiciary Committee about the firings of nine U.S. attorneys in 2006. A district court judge had ruled two months earlier that she could, and the administration, predictably, had resisted the idea. "It is truly an inter-branch conflict of the utmost degree," Nichols told the judges. "They are asking the EOP"—the Executive Office of the President—"to do something it has never done before."

**Could someone like Patrick Leahy mount the sort of far-reaching investigation that Senator Frank Church did in 1975? Perhaps. Will he? Not if he has any sense. Once Bush leaves office, Congress will have more pressing issues on its plate.**

Near the front of the courtroom, Judiciary Committee Chairman John Conyers sat in a high-backed leather chair. Before the Democrats took control of the House in 2006, Conyers had held mock hearings in the Capitol basement, and lamented his lack of subpoena power. Now he had it, but it wasn't doing much good. "There is no American citizen who is exempt from a subpoena!" protested the committee's attorney, Irvin Nathan, when it was his turn to speak. "It is not supposed to be a game of hares and hounds to get a witness to appear before the Congress."

The hearing was one of those Washington events that seem both important and oddly pointless. As they hashed out the hypotheticals of different decisions, both lawyers and all three judges made it clear they knew what was going to happen: eventually Miers would probably be forced to testify, at which point she would invoke executive privilege, which would trigger another lawsuit. That case would end up in the Supreme Court. And even if the Court were to rule in Conyers's favor—which would be no small victory—and Miers were forced to testify, she could always pull an Alberto Gonzales. "Witnesses often have amazing lapses in memory," says a former House staffer. "They claim they can't remember anything—and I'm not sure what can be done to cure that."

This is what the war over information looks like now in Congress: running battles being fought longer and harder, for diminishing returns. (A similar story is playing out in the office of Justice Department Inspector General Glenn Fine, who handed the U.S. attorneys case over to a special prosecutor after he was stonewalled by Miers, Karl Rove, and ex-Justice Department official Monica Goodling in his own investigation.) Congress has been criticized for not doing a better job of wringing the secrets out of the Bush administration, for shying away from using its heavy artillery—the power of the purse, the ability to withhold confirmation—when the White House refused to hand over documents or offer staff for testimony. This is a little unfair; congressional inquiries have actually produced an impressive documentary record of Bush administration malfeasance that now stretches into the thousands of pages, answering all but a few (albeit important) questions about scandals like the U.S. attorney firings. In a sense, this is paradoxically a case of having so much information that the essential storyline is obscured by the details, a dilemma familiar to any journalist or historian. Questions beget more questions, and if those questions can only be answered by Karl Rove or Dick Cheney, you're in trouble.

What's missing now are the key details—who authorized what, and how and why they did it. These would provide a sense of how all the moving parts fit together, the necessary big picture. The congressional committees that are doing the best work on the administration's wrongdoing—the House and Senate Judiciary Committees, the House Committee on Oversight and Government Reform, and the Senate Armed Services Committee, among others—all have narrow jurisdictions that are not well suited to this kind of wide net-casting. The same is true of agency inspectors general. And the long list of disregarded committee subpoenas suggests that more creative approaches to getting testimony are needed.

The last time Congress considered matters of this sweeping scope was 1975. Rattled by Nixon's still-fresh abuses of power and recent reports that the CIA had spied on American dissidents during the Vietnam War, the Senate and House created committees to conduct far-ranging investigations into the covert actions of American intelligence agencies. Over the course of its yearlong inquiry, the Church Committee—as the Senate panel came to be called, after its chairman, Senator Frank Church of Idaho—conducted 800 interviews and



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# TORTURE

**What we know:** In January 2002, prisoners captured in the war in Afghanistan began arriving at Guantánamo Bay, and the Bush administration had to figure out what to do with them. On counsel Alberto Gonzales's advice, President Bush declared that al-Qaeda and Taliban prisoners were not protected by the Geneva Conventions. In the following months, military interrogators began reverse-engineering the Survival, Evasion, Resistance, and Escape (SERE) methods—which were intended to help Army Special Operations soldiers avoid cracking under torture—into interrogation techniques to be applied to the prisoners from Afghanistan, effectively mimicking the tactics that had been employed by America's enemies in past wars. In spring and summer of 2002, the Justice Department's Office of Legal Counsel issued opinions arguing that any interrogation technique not resulting in impairment of bodily function, pain comparable to organ failure, or death did not constitute torture, and then laying out precisely what techniques met this definition.

The new guidelines were quickly put to use by the Defense Department (though not other agencies like the Federal Bureau of Investigation), leading to a now depressingly familiar litany of prisoner abuses that were either officially approved or quietly tolerated. But the agency that most vigorously embraced the expanded latitude was the Central Intelligence Agency, which by 2002 was running a secret program of interrogating high-value detainees in prisons in Afghanistan, the Middle East, and eastern Europe—"black sites," in intelligence parlance. Among the black site alumni are Abu Zubaydah, an alleged high-level al-Qaeda operative, and Khalid Sheik Mohammed, who has claimed responsibility, under interrogation, for the 9/11 plot and the murder of journalist Daniel Pearl (he has also told interrogators that he plotted the assassinations of Bill Clinton and Pope John Paul II, which casts some doubt on the rest of his admissions).

The *New Yorker*'s Jane Mayer, who has reported extensively on the black sites, writes that there is an important difference between the military interrogations and what the CIA did: while the Bush administration has blamed—and in some cases prosecuted—individual soldiers for the military's prisoner abuses, "the [CIA's] treatment of high-value detainees has been directly, and repeatedly, approved by President Bush."

**What we don't know:** How detainees are being interrogated now. In 2004 the Bush administration rescinded the original torture definition—which has since been made public—but the following year the OLC drafted three new memos authorizing specific techniques, which remain classified (the original 2002 techniques list has been released, but only in overwhelmingly redacted form). Jameel Jaffer, director of the National Security Program at the American Civil Liberties Union—which has successfully sued for more than a hundred thousand pages of interrogation-related documents—says there is good reason to believe that the 2005 opinions probably just redefined the same old techniques as permissible under the Geneva Conventions. In 2006, after the Supreme Court ruled in *Hamdan v. Rumsfeld* that detainees had to be treated according to the Geneva Conventions, Bush announced that all detainees in the CIA's overseas prisons would be transferred to Guantánamo. In a July 2007 executive order, he ordered the CIA to adjust its interrogation methods to meet the Geneva standards, but in a vague way that leaves the door open to techniques that still run afoul of U.S. law, such as sleep deprivation, and possibly whatever was allowed under the 2005 opinion.

**How we can find out:** President Obama can order the DOJ to declassify the second set of torture memos, and retract and amend Bush's July 2007 executive order. Either Obama or Congress can call for a review of the classification decisions that have led to heavy redactions of government documents pertaining to officially sanctioned torture that have been released so far.

Records of run-of-the-mill military prisoner abuse, much of which was not explicitly sanctioned, will be the easiest to declassify—many of them have been already. Getting an official public accounting of how prisoners have been interrogated by the CIA will be far trickier. The next administration is likely to adhere to arguments that disclosing too much in the way of actual interrogation tactics would endanger the lives of intelligence agents, or reduce the methods' effectiveness by allowing terrorists to prepare for them. From the outset, CIA interrogators have reportedly expected to be criminally prosecuted on torture cases as soon as it becomes politically expedient for the president or Congress to do so. In 2007, anonymous agency officials told the *New York Times* that the CIA had destroyed videotapes of interrogations of Zubaydah and another detainee, "in part because officers were concerned that video showing harsh interrogation methods could expose agency officials to legal risks." We don't know who exactly destroyed the tapes or what else may have been or is in danger of being destroyed, but Congress or an investigatory commission might be able to guard against losing what's still intact by granting immunity to interrogators. Establishing the responsibility of officials higher up in the Bush administration is far more important than prosecuting those who carried out their actions in the field.

Even if techniques can't be disclosed, Congress or a commission could usefully address the scope and results of the interrogations, something that would be far harder to block on national security grounds: how many detainees were subjected to extreme techniques, how many of them were ultimately cleared of wrongdoing, and whether any useful information was extracted from those who weren't. Most of the techniques that interrogators are believed to have derived from the SERE methods originated with the KGB, which used them to extract false confessions; ethics and legality notwithstanding, many intelligence veterans have questioned their usefulness for obtaining accurate information. As president, Obama should reiterate his campaign statement that "Torture is how you create enemies, not how you defeat them. Torture is how you get bad information, not good intelligence." And if the evidence suggests the latter is true, it should be made public to preempt the next Dick Cheney who suggests otherwise.



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reviewed 110,000 pages of government records, producing a report that itself sprawled across thousands of pages. Its revelations were damning: the committee confirmed that the CIA had planned the assassinations of leaders in Africa, Latin America, and Asia, had wiretapped Americans and opened their mail, had proposed infiltrating campus antiwar groups, and, Church concluded, had generally behaved like "a rogue elephant rampaging out of control." The committee's report ultimately led to the creation of the Foreign Intelligence Surveillance Court, which fairly successfully straddled the line between secrecy and accountability in intelligence matters until the Bush administration decided to circumvent it.

Because the unfortunate fact is that such investigations, while necessary, tend to be politically poisonous for the lawmakers who run them. Frank Church had presidential aspirations in 1975, but the investigation ate up so much of his time that it kept him from campaigning (he later groused that it might have cost him a shot at being Jimmy Carter's vice president, too). The public and Congress, who had been furious about agency abuses of power in 1975, had mostly lost interest by the time the committee delivered its report a year later. Only one of its recommendations—the surveillance court—actually made it into law, and Church lost his Senate seat in the 1980 election following spurious accusations that

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Could Patrick Leahy do what Frank Church did? Perhaps. Will he? Not if he has any sense. Once Bush leaves office, the Democratic-controlled Congress will be under as much pressure as Obama to grapple with a massive economic crisis and bring resolution to two wars, to say nothing of tackling looming colossi such as America's energy and environmental policies, health care system, and entitlement programs. These are not small problems, and the best solutions to them will involve unpopular sacrifices. Given Congress's permanently low approval rating, its members don't have the political capital to spare on a major backward-looking investigation, even if they did have the time to do it.

his investigation had led to the assassination of a CIA station chief in Greece. The chairman of the concurrent investigative committee in the House, New York Democrat Otis Pike, saw his reputation similarly battered, and left office in 1979. It's doubtful that Church's and Pike's successors would fare much better in 2009. Scandal-fatigued voters probably consider the Bush era something best forgotten at this point, and would prefer that Congress simply turn the page on it, rather than pick through its adventures in agonizing detail.

Also, 2009 will not be 1975. The Democratic-led Church Committee's findings were widely accepted, but then committee counsel Frederick A. O. Schwarz Jr. points out that



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this had a lot to do with the target of the investigation: thirty years of intelligence activities, under five presidents and both major parties. "So when we were critical of what had been done," he says, "it didn't raise partisan concerns." Congress has also changed dramatically since the committee did its work. The partisan allegiances that came to the fore on Capitol Hill in the mid-1990s have hardened, and the public and Congress itself are both conditioned to assume—not inaccurately—that lawmakers' motives are now dictated more by party membership than by constitutional duty. The findings of an investigation exclusively targeting a Republican administration, conducted under the auspices of a Democratic Congress, would be too easy to dismiss. Moreover, Schwarz notes, the legislative branch is deeply implicated in what the executive branch did during the Bush years, and investigating itself would be something of a conflict of interest.

This doesn't mean that Congress should abandon the idea entirely. Instead, what Congress needs to do is figure out how to achieve the same goals while avoiding the political consequences. The best way to do this is to appoint someone else to do it, a panel that does for the wartime excesses of the Bush administration what the 9/11 Commission did for the September 11 attacks. In other words, a 9/12 Commission.

## WRITE ANOTHER BEST-SELLER

The 9/11 Commission had its problems. It was given an impossible deadline, forced to spend far too much time wrangling for access, and awarded less start-up money than the government spends each year to police the use of food stamps. Co-chairmen Thomas Kean and Lee Hamilton have said that they believed the commission was "set up to fail." Some critics have accused it of prizing consensus over fact-finding. But think for a second about what it accomplished: It gathered what would otherwise have been a diffuse and unintelligible heap of raw documents and interview transcripts into a digestible narrative with policy recommendations. Even Appeals Court Judge Richard A. Posner, in a dissenting *New York Times* review of the report, dubbed it "an improbable literary triumph," and publisher W. W. Norton has sold nearly 1.5 million copies of the authorized edition to date. The commission's hearings were widely viewed and considered credible by most viewers in subsequent polls. Its findings had enough bipartisan clout that the report's biggest recommendation—the reorganization of the intelligence agencies under a single director—was passed into law by the Republican Congress in 2004 even over the objections of some party leaders (the Democratic Congress later passed most of the rest). And the commission's hearings produced iconic moments: Condoleezza Rice sheepishly acknowledging the title of the August 6, 2001, presidential daily briefing ("Bin Laden Determined to Attack Inside the U.S."), and former chief terrorism adviser Richard Clarke declaring to the 9/11 victims' families that "your government failed you."

With their strong majorities, the Democrats in Congress can remedy many of the 9/11 Commission's institutional failures from the get-go, giving the new commission enough time, money, and subpoena power to do its work. Appointing a respected bipartisan membership will be crucial, because of the simple fact that most of the people who know things we need to know are Republicans. Addington and Gonzales will probably never provide useful information about what they did, but their immediate subordinates might, if they are given the right forum in which to do so. Much of what we know now comes from the handful of them who have already come forward. James Comey, a former deputy attorney general, offered up to a Senate committee the story of the attempt by Gonzales and White House Chief of Staff Andrew Card to get Attorney General John Ashcroft to sign an extension of the NSA's secret wiretapping program while Ashcroft was ill and drugged in a hospital room. Jack Goldsmith, the former OLC head, has published an illuminating memoir of his time in the administration that fills in a great deal of granular detail about how Cheney, Addington, and Gonzales pursued their agenda. Both Comey and Goldsmith are staunch conservatives who agreed with the Bush administration on many principles, but not with the unconstitutional methods by which it pursued them. Comey may have been willing to volunteer his story to a Democratic Senate committee, but a bipartisan commission could be instrumental in reaching more reluctant administration veterans. Some might talk out of a sense of duty, as Comey and Goldsmith appear to have done. Others might be persuaded to testify in order to clear their names and position themselves for future appointments. The crucial thing is to define the question as what happened, not whether it was right. Now is not the time to argue with Jack Goldsmith about what constitutes a legal

> Without a collectively agreed-upon story of Bush's transgressions, efforts by Congress to undo them will be misinterpreted as a Democratic power grab. That would worsen the partisan trench warfare that got us in this mess in the first place.



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interrogation technique. Now is the time to get him to help explain what those techniques were.

The commission can sweeten the deal by offering future immunity to anyone willing to testify, making it clear that its goal is to fill in the history of the Bush years, not to send anyone to jail. Otherwise, says Jim Dempsey, the vice president for public policy at the Center for Democracy and Technology and a former House Judiciary Committee counsel, "all the people who know what you want to know come under the protection of the Fifth Amendment. They lawyer up, and the whole inquiry gets frozen." (John Yoo did just that this summer, arriving with high-powered defense attorney Miguel Estrada at a House subcommittee hearing.) And as tempting as it is to believe otherwise, the odds of any major Bush administration figure serving time for what happened over the past eight years are pretty long under even the best of circumstances. Remember Goldsmith's get-out-of-jail-free card: it would be difficult to con-

# WIRETAPPING

**What we know:** In October 2001, the National Security Agency began monitoring the phone and e-mail traffic that passed through "switches," or telecommunications gateways, located on American soil. The program would later be retroactively named the Terrorist Surveillance Program. What distinguished it from previous, legal wiretapping operations was that it was warrantless—after the Foreign Intelligence Surveillance Act was passed in 1978, this kind of spying had required a signoff from a judge on the Foreign Intelligence Surveillance Court.

General Michael V. Hayden would later testify that only communications between a party in the United States and another overseas—usually in Afghanistan—were monitored. Dick Cheney had pushed for authority to tap purely domestic calls too, but, according to Alberto Gonzales, Bush nixed that idea. In 2004, after top Justice Department officials grew concerned about the legality of what the NSA was doing, the program was modified. In 2007, Bush formally moved the wiretapping program back under the aegis of the FISA law.

In July, Congress passed a bill making significant changes to that law. While the new legislation clarified that any wiretapping done outside the FISA system is against the law, it effectively legalized much of what had been done illegally under the TSP, shrinking the role of the surveillance court and allowing warrantless tapping of Americans for up to seven days in "exigent" circumstances. It also included a controversial provision that gave immunity to the telecom companies that had cooperated in the TSP and had been targeted by dozens of privacy lawsuits after the news of their cooperation broke.

**What we don't know:** Who, exactly, was wiretapped. The NSA has not disclosed the scope of the surveillance program—how many people were targeted. And logically, the relatively narrowly focused program we do know about had to have been preceded by a much larger dragnet. We know that after the Justice Department balked in 2004, the program was changed to fit within what DOJ officials deemed to be more reasonable legal constraints. But we don't know *how* it was changed—which tactics ran afoul of the law. And we should be worried about the new law, too, if what Senator Russell Feingold—who, because of his committee posts, received classified briefings on the subject—said in Senate debate at the time is any guide. "If we grant these new powers to the government and the effects become known to the American people," he said in July, "we will realize what a mistake it was, of that I am sure."

**How we can find out:** In late October, a district court judge ordered the Justice Department to turn over the OLC memos authorizing the original warrantless wiretapping program. As of this writing Bush's DOJ hasn't complied, but Obama should. He should also disclose what original tactics were abandoned in 2004. The new FISA legislation passed this summer required the intelligence agencies' inspectors general to issue reports on extrajudicial wiretapping; Obama could at least partially release them. Any specific discussion of techniques that are still in use will be difficult to declassify without divulging American intelligence capabilities, and other details may need to be withheld to guard the privacy of innocent people who were wiretapped. But a broader discussion of the general contours of the program—the number of targets, for instance—should be made public. "Parts of the report could legitimately be kept secret," says Kate Martin, director of the Center for National Security Studies. "But there are a lot of questions they could answer publicly: Did the government listen to the *contents* of telephone calls? How many people were listened to? How many calls by those people were listened to? What range of numbers of individuals? A hundred people a year? A thousand? Ten million?"

Considering how much of the program is likely to remain legitimately classified, it should be a top priority for Congress—whose intelligence committee leaders have been read in to the program—to rein in, publicly or in secret, as many as possible of the excesses that have been permitted, and increase safeguards on it happening again. Fortunately, the new FISA law sunsets in 2012.



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vict anyone in a position of authority on charges related to interrogation or wiretapping, because those actions were legitimized with OLC memos. At most, a few CIA interrogators would go to prison, and the big fish would go free, á la Abu Ghraib; and this summer, Congress—the *Democratic* Congress—absolved the telecommunications companies that helped the NSA listen in on phone calls and e-mail exchanges. The U.S. attorney firings? Maybe a few tangentially related perjury convictions. Invading Iraq on false pretenses? Henry Kissinger did worse, and won the Nobel Peace Prize. And for all of the above, Bush could always borrow a page from his father, who less than a month before leaving the Oval Office preemptively pardoned half a dozen of his fellow Reagan administration officials—including the defense secretary—for their involvement in the Iran-Contra affair, sinking an independent prosecutor's six-year investigation.

Most importantly, a commission tasked with creating the be-all, end-all record of a tumultuous political era makes a powerful implicit offer to potential witnesses: the prospect of having some small influence on how they are viewed by history. This is why once-loyal administration officials talk to Bob Woodward and publish memoirs that polish their reputations at the expense of their former bosses', and why the 9/11 Commission was ultimately able to wrestle testimony—albeit unsworn—out of two presidents and vice presidents on the subject of their own failures. It's not crazy to think that one or two staffers from the Office of the Vice President, weighing the risk of coming off badly in another witness's telling against the limited political rewards of loyalty to an administration whose marquee names will be out of power for quite some time, might volunteer their own accounts of the past eight years; they would be instrumental in helping to clear away the unknown unknowns and suggesting which questions to ask. And it's not totally crazy—though it's certainly a stretch—to think that our history-obsessed president, who was apparently out of the loop on some of his own administration's worst debacles, might even toy with the idea for a minute or two.

What the 9/12 Commission needs to do, above all else, is tell a story. In *War Is a Force That Gives Us Meaning*, veteran war correspondent Chris Hedges writes that following a conflict it is crucial for both sides, aggressor and victim alike, to surrender the narratives they have created in support of their own causes and agree upon a single account of what happened. "Until there is a common vocabulary and a shared historical memory there is no peace in any society," he writes, "only an absence of war." Comparisons of our deeply divided nation to a literally civil-war-torn one aren't worth belaboring, but it is a fact that pervasive misinformation and secrecy, worsened by an increasingly tribal political culture and the sheer complexity of the issues at hand, have left Americans with fragmented and conflicting understandings of what exactly has been done in our name over the past eight years. Without a collectively agreed-upon story of the Bush administration's excesses, efforts by Congress to undo them and ensure that they don't happen again are likely to be misinterpreted by half of the electorate as a Democratic power grab rather than a reinstatement of constitutional protections. That would worsen the partisan trench warfare that got us an irresponsible Congress and hubristic White House in the first place.

Even if the commission turns up nothing new, even if its findings are watered down, it still has value if it can write this kind of official history. Thomas Kean has a funny story from the early days of the 9/11 Commission's work, about his first classified briefing from the FBI. It took place at an undisclosed Washington address, in a room accessible only to people with the right security clearances, protected by high-tech locks and wired to block listening devices. In the secured room, Kean was given a copy of the bureau's authoritative record of the events of September 11, a thick document stamped TOP SECRET. An FBI minder looked on as he read it.

A bipartisan commission tasked with creating the be-all, end-all record of a tumultuous political era makes a powerful implicit offer to potential witnesses: the prospect of having some small influence on how they are viewed by history.

Kean, who had only recently been cleared for access to this kind of material, had high expectations. But as he leafed through the file, he grew disappointed. The information the bureau had provided him was nothing new—he had already read most of it in newspapers.

"I know all of this," Kean told the FBI man.

"Yes," the minder replied, "but you didn't know it was true. WM

**Charles Homans** is an editor of the *Washington Monthly*.



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# Transformation 101

## Technology is driving down the cost of teaching undergraduates. So why are tuition bills going up?

By Kevin Carey

On August 6, 2008, the *Washington Post* reported that tuition and fees at public colleges in Virginia will increase by an average of 7.3 percent this year. The article was four sentences long and ran in the Metro section, below the fold, in space reserved for unremarkable news. The drumbeat of higher education price increases has become so steady in recent years that it barely merits attention. But the cumulative effect is enormous: the average price of attending a public university more than doubled over the last two decades, even after adjusting for inflation. The steepest increases came in the last five years.

And there's nothing routine about the way college costs are weighing down lower- and middle-income families. Students are still going to college—in this day and age, what choice do they have? But some are getting priced out of the four-year sector into two-year colleges, while others are trying unsuccessfully to simultaneously hold down a full-time job and earn a degree. More students are going deeply into debt, narrowing their career options and risking catastrophic default. The lightly regulated private student loan market, which barely existed ten years ago, now controls about 20 percent of loan volume, burdening financially vulnerable undergraduates with high interest rates and few legal protections. State and federal governments have poured tens of billions of new taxpayer dollars into student aid programs, only to see them swallowed up by institutions with a seemingly unlimited appetite for funds.

For years colleges have insisted that rapidly rising prices are unavoidable because higher education is a labor-intensive business that cannot become more efficient. A forty-minute lecture takes just as long to deliver today as it did a hundred years ago, they say; a ten-page paper takes just as long to grade. Because efficiencies in other industries are driving up the overall cost of skilled labor, colleges have to offer salaries to match, which pushes productivity down. (Economists call this "Baumol's cost disease," after the New York University economist who first made the diagnosis.) Regrettable for students, of course, but what can be done?

In fact, this premise is false. Colleges are perfectly capable of becoming more efficient and productive, in the same way that countless other industries have: through technology. And increasingly, they are. One of the untold stories in higher education is that the cost of teaching is starting to decline, but virtually none of those savings are being

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passed along to students and parents in the form of lower prices. Instead, colleges are pocketing the difference, even as they continue to jack up tuition bills.

This is a classic unsustainable trend. Higher education prices cannot grow faster than inflation and family income forever. If colleges use productivity gains from technology to restrain prices, they'll continue to thrive in a world that values their product more than ever. If they don't, they'll be hammered simultaneously by a frustrated public and new competitors eager to steal their customers. To avoid that fate, colleges will need to do more than just teach better for less. They'll also need to compete in a whole new way.

To see just how much technology is changing undergraduate education, drive to Virginia Tech University, nestled in the mountains of southwest Virginia about four hours from Washington, D.C.—and then just a little farther, a few blocks from where the campus ends. To the mall.

It's not much to look at, just another outdated commercial husk that had its heyday back in the 1980s selling cassette tapes and Spencer's gifts before getting squeezed by Wal-Mart on one end and the newer, bigger, better mall out by the interstate on the other.

Walk down to the poorly lit atrium, take a left, and you'll find the Virginia Tech Math Emporium in 60,000 square feet of gray, windowless space that used to house a five-and-dime. There are 700 late-model iMac computers arranged in pods of six, row upon row. Arrive at ten p.m. on a weekday and you'll find hundreds of students, some solving math problems on the computers, others reading textbooks or chatting quietly in study groups while teaching assistants help undergrads with sticky problems in differential calculus and vector geometry. It's everything you'd expect from a traditional four-year university—except for professors, and classes.

The Math Emporium was born out of a financial problem. Since being founded as a land-grant institution in 1872, Virginia Tech has developed a reputation as a first-rate engineering school and has become an increasingly popular destination for students in Virginia and beyond. By the mid-1990s, the growth was causing strain. Engineers need to learn math: more than a thousand students take linear algebra every semester. But even as the number of students wanting to take such courses was going up, internal budget cuts to the math department were reducing the number of professors available to teach them. This kind of fiscal irrationality is typical in higher education, where departmental budgets often have little relationship with costs, revenues, or demand.

For the math department, all the conventional solutions seemed grim. Adding more course sections wasn't easy; in addition to the professor shortage, the university was running out of space, and some courses were being taught in a basketball arena and an old movie theater. Capping enrollment in required courses would have forced students to stay in school longer, angering parents and state legislators. Increasing faculty workload would have driven more professors out of a department that was already short-staffed.

Fortunately, someone had a better way. After earning a PhD in applied math from NYU in 1976, Michael Williams moved to Blacksburg to teach. An interest in computers led to a job as the university's vice president for information systems, and by the 1990s he was busy helping professors integrate computers into their teaching. Williams knew how to teach math, and he knew how to teach with technology. The math department budget crisis gave him an opportunity to put the two together, and bring the effort to scale.

In designing the Math Emporium, Williams started by rethinking the issue of space. Campus space is inevitably a scarce resource, subject to bloody administrative battles between professors and departments. But all Williams needed was someplace cheap that students could get to easily, with enough room for hundreds of computers and little else. He also wanted space that other academic departments wouldn't want to steal. So he leased the vacant former home of Rose's Department Store, a now-bankrupt regional discount chain, for the bargain price of three dollars per square foot.

*The cost of providing math instruction at Virginia Tech has declined as much as 75 percent for some courses. But the university's tuition increased nearly 11 percent this year, and math students are paying twice what they did in 1997.*

Then Williams rethought the student learning experience from the ground up. Undergraduate education, particularly at big state universities, is often passive and regimented. Students sit and receive information in the form of lectures that occur at a time and place of someone else's choosing. The Math Emporium courses that Williams designed—there are currently nine—work in a very different way. Each course is broken up into a series of "modules," available on Emporium computers or the Internet, that students are required to complete within a certain amount of time. Each module outlines a specific set of mathematic principles and concepts. These are translated into specific examples to review and problems to solve.



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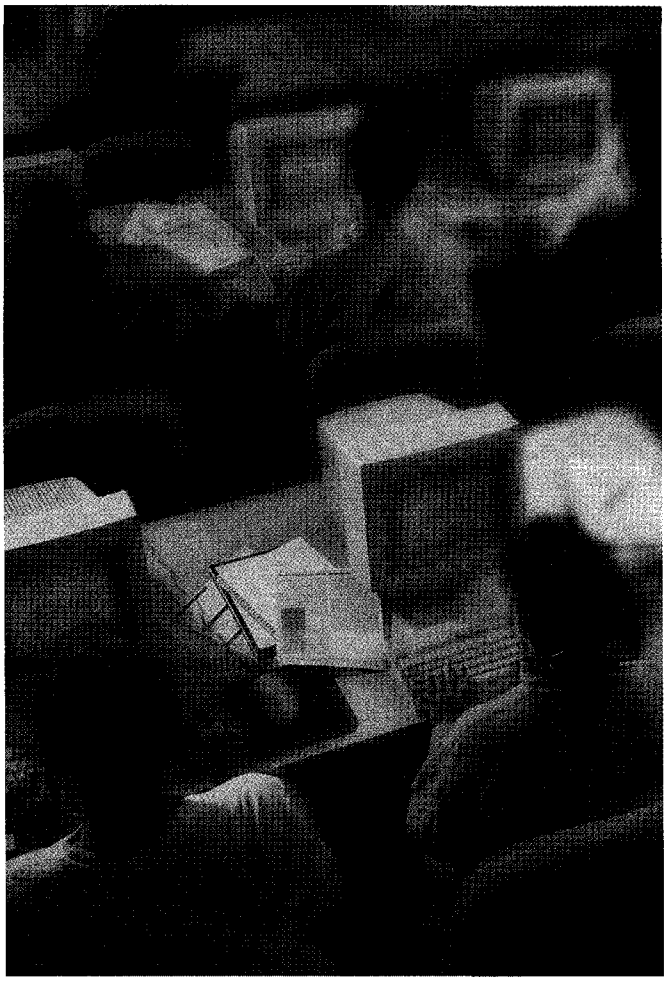
Once the module materials are completed, students can take randomly generated practice tests that draw on a central bank of thousands of potential questions. If they get questions wrong, the computer refers them back to the appropriate materials, and there's no limit to the number of practice tests they can take. When they decide they're ready, students come to the Emporium to take an official, proctored test that's generated in exactly the same way as the practice quizzes. Then they move to the next module. Instead of marking progress by time—the number of hours spent in proximity to a lecturer—Emporium courses measure advancement by evidence of learning.



Ten years ago, places like the Emporium were virtually unheard of. But over the last decade a wide array of colleges and universities have implemented similar reforms, under the auspices of a nonprofit organization called the National Center for Academic Transformation. In March 2008, more than 400 people from 145 colleges and universities gathered at a conference center in Orlando, Florida, for the second annual NCAT convention.

For three days, college representatives mingled in the elevators and hallways with swimsuit-wearing vacationers en route to Disney World and Epcot Center. In rows of windowless conference rooms, professors and administrators gave PowerPoint presentations explaining how technology can lower costs in a wide range of undergraduate courses. Some institutions, like the University of Alabama, have replicated the Virginia Tech Math Emporium model. Others have adopted a hybrid approach, reducing but not eliminating lectures while moving selected course materials, problem sets, and class discussions online. Arizona State, for example, recently used this method to transform an introductory women and gender studies course. Florida Gulf Coast University put its "Understanding the Visual and Performing Arts" course completely online. Portland State University focused on introductory Spanish, freeing up professors to teach more sections by using computers to grade language worksheets. Biology, psychology, chemistry, economics—the whole range of undergraduate courses was on display in Orlando.

Of course, every college has unique courses that can only be delivered by a live person to a small group of students. Liberal arts colleges that specialize in small classes taught by full professors are less likely to benefit from NCAT-style reforms. But the majority of students attend institutions where big lecture courses are the norm. Curricula are fairly standard at most colleges, particularly for lower-division courses—nearly everyone teaches calculus, economics, English comp, and psychology 101. NCAT estimates that just twenty-five such courses make up half of all community college enrollments and one-third of enrollments in four-year institutions. That translates into tens of millions of potentially transformable credit hours nationwide.

It's tempting to see the automation of college teaching as educational malpractice, a ploy to water down instruction and put professors out of work just to save a few bucks. But there's persuasive evidence that the opposite is true—properly used, technology can make higher education *better*, not worse. NCAT has been spreading the gospel of course transformation since the late 1990s, when it secured an $8.8 million grant from the Pew Charitable Trusts to pilot the process with thirty colleges. The results were unequivocal: twenty-five colleges saw learning results improve while the other five saw no change. All thirty reduced costs, some by over 70 percent. As the number of NCAT institutions has expanded, they've found similar—or even greater—success.

The results at some institutions have been dramatic. In the late 1990s, students at the University of Alabama were washing out of freshman math courses in large numbers, and the failure rates for minority students were particularly high. After building a smaller version of the Emporium in 2000, Alabama boosted pass rates from 40 percent to nearly 80 percent—and erased the previously large gap between white and black students.

The key is letting computers do what they do best—grading multiple-choice tests, providing 24/7 access to text, audio, and video, connecting people to one another at a dis-

Phil Banko



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tance—while retaining the human element when only real people will suffice. The Virginia Tech Math Emporium is staffed twelve hours a day with a combination of upper-division math majors, graduate students, and faculty, each of whom is prepared to help students with any of the Emporium-based courses.

And even when the notoriously nocturnal undergraduate lifestyle puts teachers of any kind out of reach, the Emporium never closes and the computers never sleep. Virginia Tech students always have access to the mind of Michael Williams, the ghost in the Emporium machines.

In part because of the success of the Math Emporium, the cost of providing math instruction at Virginia Tech has declined dramatically—as much as 75 percent for some courses. But the university's tuition increased nearly 11 percent this year alone, and Virginia Tech math students are paying twice what they did eleven years ago, when the first Emporium course was offered. If Michael Williams is saving Virginia Tech hundreds of thousands of dollars a year and other colleges are realizing similar savings, why aren't their students seeing a dime of that money?

For the most part, colleges would just rather spend it elsewhere. The nonprofit Delta Project on Postsecondary Education Costs recently found that tuition and fee revenue per student at public research universities increased by 34 percent, in inflation-adjusted dollars, from 2000 to 2005. At the same time, spending per student on instruction and academic support *declined*. This is nothing new—overcharging for introductory courses is standard operating procedure in higher education, and has been for a long time. Colleges routinely use the excess revenues generated by huge, inexpensive lecture hall classes to support other, money-losing activities. Freshmen have always been cash cows—technology just made them more so.

Where did all the money generated by cost savings and price hikes go? In some states, back to the public treasury. Legislatures have a tendency to use public universities as a piggy bank during hard fiscal times, cutting appropriations to higher education with the tacit understanding that colleges can raise prices to make up the difference—a backdoor tax increase on consumers of higher education.

And in some cases, the money is used for virtuous purposes. The modern university is a conglomerate, housing a host of disparate scholars and functions under one roof. Some university components, like philosophy departments, historical archives, and graduate programs, have limited up-front economic value but provide great benefits to society at large.

But colleges also tend to be inefficient while spending a lot of money on nonacademic activities and general self-aggrandizement. The NCAA recently revealed that among 119 Division I-A universities, the typical athletic department lost $9.3 million in 2006. That's up from $6.1 million in 2004, a 50 percent jump in just two years. The growing deficits have to be made up from other sources, like tuition. And construction spending is always popular; new libraries, buildings, and student centers with climbing walls are good for marketing purposes—and they create plenty of blank space on which to engrave the names of generous alumni.

Colleges have increased real-dollar spending on student financial aid by more than 50 percent since 2000. But those dollars are increasingly going to the *wealthiest* students. Sometimes colleges buy students with high SAT scores, a factor in the *U.S. News & World Report* college rankings. Colleges also use sophisticated pricing and behavioral models to attract undergrads who'll net them the most money. A $2,000 scholarship can be enough to woo the academically marginal child of wealthy parents, who then proceed to pay full tuition and donate generously to the endowment. (Since the dumb rich kid strategy is a net revenue generator, it's not, strictly speaking, a case of screwing poor students by overcharging them. Instead, it's a case of screwing poor students by not admitting them in the first place.) Annual research spending is also growing 2 percentage points faster than inflation, which is good for faculty who depend on scholarship for professional advancement.

*Legislatures tend to use public universities as piggy banks during hard fiscal times, cutting appropriations with the tacit understanding that the colleges can raise prices to make up the difference—a backdoor tax increase on consumers of higher education.*

All of these things—research and scholarship, Division I sports programs, new buildings, high SATs—have one element in common: they're components of status. And colleges are, at their core, status-seeking institutions. If a college's reputation were based in large part on how well it taught its students, the desire to gain status would be perfectly acceptable—even virtuous. Colleges would be forced to balance the competing interests of students, faculty, administrators, alumni, and the public at large. Self-interested institutions would prosper, and students would get a high-quality, reasonably priced education in the bargain.

But status in higher education isn't based on comparable measures of student learning, because such measures



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aren't publicly available; lobbyists for colleges and universities have made sure the data is kept under wraps. Since it's effectively impossible to judge institutions by their outputs—that is, by how much students learn—the pecking order in higher education tends to be based on measures of inputs, like the SAT scores of incoming freshmen or the cost of a year's tuition. As a result, price has become a symbol of quality instead of a component of quality. Colleges have many incentives to raise prices and none to lower them—indeed, lower prices send a *negative* signal to the market. Instead of increasing the number of customers, lower prices often drive them away. The *U.S. News* rankings reinforce this. Ten percent of a college's score in those rankings is based on spending per student, while another 20 percent is based on factors like faculty salaries and small class sizes, which cost money to buy. Colleges that used the savings from technology to cut prices—and thus expenditures—would see their ranking go *down*. Their status diminished, schools would see their applications for admission and alumni donations fall as well.

*High tuition has become a symbol of quality in higher education, and colleges have many incentives to raise prices and none to lower them. Instead of increasing the number of potential students, lower prices often drive them away.*

If colleges competed on value—student learning outcomes divided by price—then they could get ahead by increasing the quality of education *or* cutting price (or both). Courses like those taught at the Math Emporium, where students advance by demonstrating mastery of the subject (as opposed to spending X hours sitting in class), naturally lend themselves to an outcomes-based approach. And the number of other measures that could potentially be used to measure and publicly report student outcomes has grown rapidly in recent years (see "Is Our Students Learning?" *Washington Monthly*, September 2006). Colleges could use that information to seek out the middle-class sweet spot in the market, becoming the equivalent of Target or Toyota.

There would, of course, still be a niche market for Lexus U., because there will always be rich people willing and able to pay for the status signifiers that elite colleges provide. Indeed, Yale University recently began *giving away* complete sets of popular lecture course videos, at open.yale.edu. Yet more students than ever are applying for the privilege of forking over $50,000 per year for those same courses. Students in New Haven aren't paying a premium for what they learn—they're paying for the piece of paper certifying that they learned it at Yale.

But only a few colleges can be in the luxury degree business. (The Ivy League isn't accepting applications for new members.) Most would sensibly compete for middle-class and value-seeking students, making their case based on student educational and employment results and holding down prices for fear of losing customers to more efficient competitors. Their lust for status based on exclusivity and scholarly renown would be tempered by their obligations to students and the public. Instead of building rec centers and extravagant dorms to compete for students, colleges would be more likely to invest in high-quality courses and reward faculty for their prowess in the classroom. Open-access universities and community colleges, some of which provide a much better learning environment than their more famous peers, would finally have a level playing field on which to compete for students and acclaim. As it stands, price cutting gets colleges nothing, which is why it hardly ever occurs.

Competing on value would give colleges a reason to restrain prices, and technology would give them a way. While no one knows the upper limit of how much money colleges could save by transforming courses, it's clear that if they applied the methods pioneered at Virginia Tech and elsewhere at scale, the impact could be huge. Some state systems, including those in New York, Maryland, Arizona, and Mississippi, are already going in this direction. Maryland has also moved to consolidate energy purchasing and centralize back-office operations among multiple campuses while capping the number of credits student have to earn for degrees. Those and other savings helped the system buck the national trend by keeping tuition nearly flat over the past three years.

But without the right market incentives, such leadership will likely continue to be the exception, not the rule. If higher education costs continue to spiral upward, student debt loads will grow, default rates will rise, and graduation rates will stagnate or decline. Low- and middle-income students and families—people at the margins of economic opportunity, for whom a college education means the most—will disproportionately suffer. Traditional four-year colleges and universities will increasingly become enclaves of privilege, places where class divisions are reinforced rather than broken down. Fed up with unaccountable colleges and uncontrollable prices, the public will gradually withdraw from its historic commitment to higher education, weakening institutions that are vital for the nation's competitiveness in the twenty-first century.



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Students, meanwhile, will likely turn in increasing numbers to the for-profit universities that are aggressively moving into the market by offering convenient, no-frills degree programs over the Web. Enrollment in the "Online Campus" of the University of Phoenix, an accredited for-profit institution, grew from fewer than 15,000 students in 2000 to nearly 225,000 in 2007. And since there are no publicly available measures of learning results, there's no way to know if Phoenix courses and others like them are better or worse than those offered by traditional institutions.

Long-prosperous colleges risk finding themselves in the perilous state of the newspaper, with competitors using the Internet to drive down prices in businesses that were once profit leaders. That would be a mixed blessing, at best. The Web is a boon for those who need to access higher education at a distance. For colleges that have grown complacent and inefficient—and there are many—a dose of fiscal reality would do them good. But the financial cross-subsidization at the heart of the modern university also sustains much of what makes it a uniquely valuable institution, more than a mere conveyer of credits and degrees. Much as newspapers use classified advertising to support money-losing foreign bureaus, subsidized scholarship makes huge contributions to the scientific, cultural, and civic lives of the nation. The University of Phoenix does not.

Colleges also offer students a unique intellectual and cultural environment in which to grow and learn. Technology can approximate the experience of interacting with professors and fellow students, but it can't replace it entirely. That's the genius of places like the Virginia Tech Math Emporium—with tutors on call twelve hours a day, students have *more* access to real-life instructors than they once did, at less cost to the university. People learn a lot of what they know on their own, or through informal interaction with others. But the moments when they need a teacher—for information, clarification, or inspiration—are crucial, and impossible to schedule ahead of time.

Andersen Ross

That, along with everything else that traditional colleges provide, is worth paying for. But people will only pay so much. As that limit approaches, colleges will either embrace the need to compete on quality and use technology to enhance productivity, or they'll find themselves diminished in a way that leaves students, scholarship, and society at large all the poorer. WM

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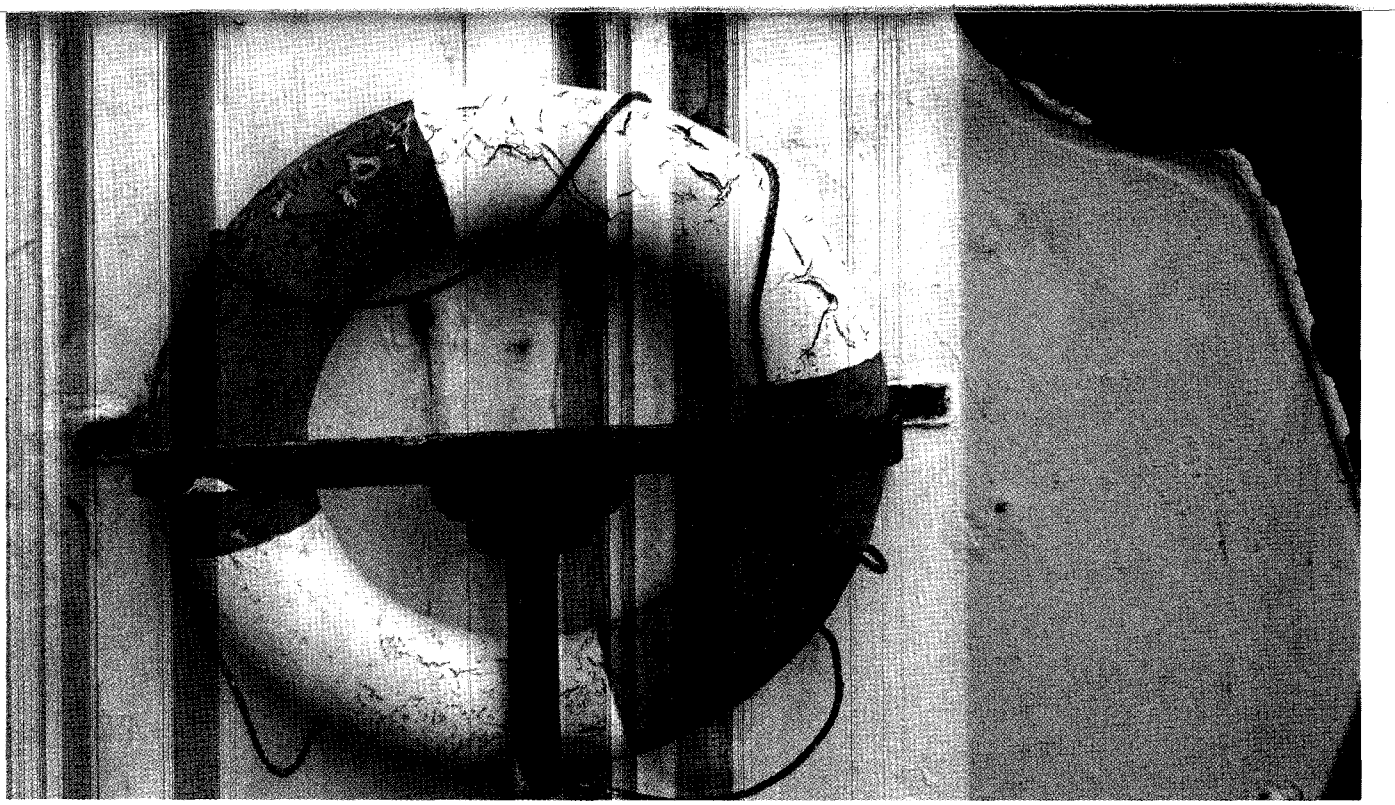

# Sunk Costs

## Why, after $24 billion in upgrades, the Coast Guard still deploys a fleet of rustbuckets

By David Axe

In August, a Coast Guard cutter called *Dallas* set sail from Crete for the Black Sea. The brief but violent conflict between Russia and Georgia had just ended, and the Pentagon was rushing humanitarian aid to its Georgian allies. The cutter, which is usually based in Charleston, South Carolina, was laden with thirty-four tons of medicine, blankets, and diapers, and had been ordered to transport them to the Georgian port of Poti. As *Dallas*, a 378-foot white vessel with a blocky superstructure, neared the Georgian coast, a heavily armed Russian frigate pulled up to "see what we had on our deck," in the words of Robert Wagner, the ship's serious, square-jawed captain. At the last minute, the order came from the highest levels of the Pentagon for *Dallas* to change course. Instead of docking in Poti, which had recently been occupied by Russian troops, she headed to Batumi, which was still in Georgian hands.

Almost triggering an international incident with Russia was not, however, the most dangerous event in *Dallas's* journey. That came months earlier. *Dallas* is pretty old for a cutter—she was launched in 1967, and has been very busy in the intervening four decades. She fired her gun against targets in Vietnam, scoured the ocean for debris from the space shuttle *Challenger* in 1986, and helped round up tens of thousands of migrants during mass exoduses from Haiti and Cuba during the 1990s. In 2003, *Dallas* even supported the invasion of Iraq by blockading the Suez Canal against fleeing Iraqi vessels.

However, the cutter's advanced age and eventful lifestyle had taken its toll. Before she left for Georgia, she had suffered from boiler failures and the breakdown of the system that makes fresh water for the crew. Repairs are tricky, because there are usually no parts readily available for such a geriatric ship, and the factories that once manufactured them closed down long ago. (Cutter crews have been known to call maritime museums in search of replacements.) "These ships are old, and it takes a lot to keep them going," Wagner told me. With her patched-up water plant and boiler, *Dallas* crossed the ocean in June, bound first for Africa, then Crete. En route, fires broke out in the engine room on at least two occasions. Of all the threats that sailors face, fires are potentially the most lethal; an engine-room fire can strand a ship at sea or, if the blaze spreads, even sink the vessel. *Dallas* was lucky. Her crew quickly smothered the flames with fire extinguishers.

In the Navy, fires would be grounds for formal investigation and dismissal, but in the Coast Guard, breakdowns, equipment

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failures, and minor calamities are more or less a way of life for cutter captains—enough so that Wagner joked about the incident when I asked him about it. The Coast Guard's equipment is some of the oldest in the entire U.S. military, and the third oldest of any coast guard in the world, surpassed only by the Philippines and Mexico. What's more, thanks to the Bush administration's effort to mobilize as many agencies as possible in the "war on terror," the Coast Guard's dilapidated ships are being deployed on increasingly ambitious overseas missions. That's why *Dallas* was sent to Georgia, and also why it had previously spent two months in West Africa, so U.S. soldiers could help train local military groups.

Captain Wagner should not have had to take *Dallas* on such a perilous voyage. More than a decade ago, the Coast Guard came up with a plan, called Deepwater, to replace aging vessels like *Dallas* with new cutters, at a reasonable cost to taxpayers. But in the feverish aftermath of 9/11, with the Bush administration eager to turn all government departments into outposts of the war on terror, the humble Coast Guard attempted a far more ambitious transformation—a $24 billion scheme to transform its boats into an integrated fleet boasting heavy weaponry and futuristic communications systems. When the agency leapt at the opportunity to get its hands on an expanded budget and high-tech ships, however, it failed to put in place the necessary tools to make sure that such massive contracts would actually deliver what the government ordered. The result has been six years of incompetence and alleged fraud by private contractors and billions of squandered taxpayer money, much of it wasted on flawed boats that have since been scrapped. The Coast Guard, meanwhile, is still attempting to play a growing military role with ships that are old, unreliable, and a hazard to their crews.

The Coast Guard was founded in 1790 to intercept ships and make sure the captains paid taxes on their goods. Over time the Coast Guard's missions evolved, and 200 years later, it was used to "protect life and property at sea, enforce federal laws and treaties, preserve marine natural resources and promote national security interests." Despite this last tenet, the service really only ventured abroad during special missions, national emergencies, or major wars. During World War II, for example, the Coast Guard helped crew Navy vessels, because the Navy was building ships faster than it could train new sailors. Twenty-five years later, the Coast Guard deployed to Vietnam to help the Navy with an unfamiliar task: patrolling that country's dangerous rivers. In recent decades, the Coast Guard has remained close to American shores, focusing on law enforcement and safety, and occasionally intercepting drug smugglers in the Caribbean.

By the 1990s, the service's thirty-some large cutters were, on average, nearly three decades old and starting to deteriorate. The situation worried senior Coasties, who fretted in a 1995 report that the agency's major assets were "rapidly approaching the end of their service lives."

So the Coast Guard developed Deepwater, which called for replacing all of the service's major ships, aircraft, and electronics with an integrated fleet that shared common technology and communications systems. It would cost around $17 billion over the next twenty years—the most ambitious procurement scheme the Coast Guard had ever undertaken. In early 2001, the GAO issued warnings about the agency's ability to raise the money and manage the contract. And indeed, garnering funds proved difficult. A relatively small agency under the umbrella of the Department of Transportation at the time, the Coast Guard didn't have anything like the clout to compete with the Army, Navy, and other big service branches for national security dollars that, in the deficit-conscious late 1990s, were not flowing copiously to begin with.

Then came the events of September 11, and the Coast Guard saw its chance. On June 1, 2002, President George W. Bush delivered the now-famous commencement address at West Point, in which he laid out his doctrine of preventive war. Promising to "take the battle to the enemy," the president called for "modernizing domestic agencies" so that they would be "prepared to act, and act quickly, against danger."

*Coast Guard crews have been known to call maritime museums in search of replacement parts for their aging ships. In a shipyard near Baltimore, I saw a patrol boat hoisted up on a lift, with dime-size holes in its hull and lengths of plating held together by rust.*

Suddenly, the Coast Guard's dreams of a refurbished fleet seemed aligned with the Bush administration's grand vision of government in the age of terrorism. The Coast Guard brass seized the moment. They pushed hard to be moved out of the backwater Department of Transportation and into the newly created Department of Homeland Security. The transfer elevated the Coast Guard from its predominant safety and law enforcement function to an "international maritime security" role aimed at "prevent[ing] attacks in the U.S. maritime domain," as Admiral Thomas Collins, then the service's top officer, put it.

The new counterterrorism mission put the Guard in a better position to lobby for funds—its budget nearly doubled, and it added thousands of new employees. A maritime se-



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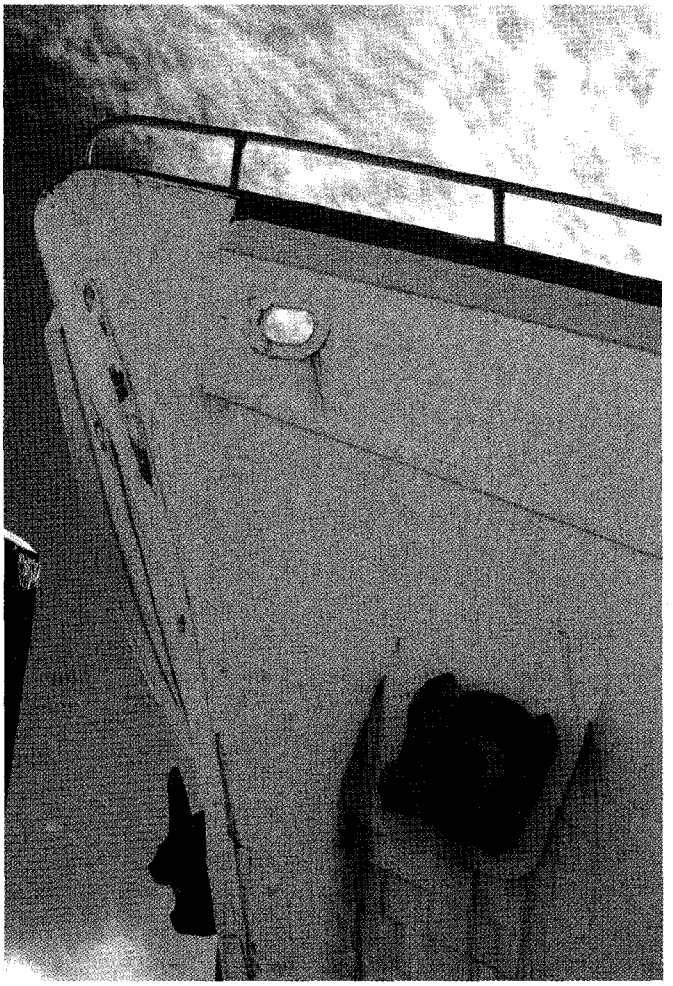
curity policy signed by the president required that the Coast Guard and Navy have similar technologies and be prepared to fight wars together, which justified requests for heavier weapons, military-grade communications systems, and larger ships that could accompany the Navy on overseas deployments. So the Coast Guard decided to make Deepwater, already an elaborate undertaking, even more elaborate. It would buy more capable ships and refurbish and rearm hundreds of existing aircraft and vessels. It would convert its existing forty-nine 110-foot boats into 123-foot patrol boats with sophisticated new radios; and it would purchase eight



418-foot "National Security Cutters"—as large and as heavily armed as Navy frigates and easily the most powerful ships the Coast Guard had ever had. All the new ships and planes would communicate via sophisticated encrypted satellite radios that could plug into the broader Pentagon command-and-control network.

Of course, these new toys came with a price tag: $24 billion over twenty-five years, nearly $7 billion more than the original Deepwater projections. The Bush administration's ambitious plan for the Coast Guard had set this respected but modest agency on an uncharted course. Whether the service could meet its grandiose new goals would depend on how the Deepwater plan was executed—and here, too, the Coast Guard was dazzled by another set of innovative but untested ideas.

Deepwater's problems began long before the first keel of a revamped ship ever touched the water, when the Coast Guard made a critical decision about *how* it would expand.

In bureaucratic parlance, the process of buying new equipment is known as "acquisitions": the vital practice of marrying cash with requirements and shepherding complex contracts from blueprint to production to delivery. In the 1990s, however, budget cuts resulted in a 50 percent decrease in acquisitions staffs throughout the military, including the Coast Guard, as the Clinton administration moved to streamline government and reduce defense spending in the aftermath of the Cold War. After 9/11, government spending on weapons systems practically doubled overnight. But because it takes years or even decades to train senior managers, acquisitions personnel remained at 1990s levels, swamped with a deluge of contracts. By the time Deepwater got the green light in 2002, the Coast Guard found itself with double the budget but no dedicated acquisitions office at all—just a few procurement professionals scattered throughout its headquarters.

This may sound like a rather dull set of developments among an obscure tribe of bureaucrats. But acquisitions professionals are the gatekeepers who make sure that taxpayers' money is spent wisely and efficiently, and that the government gets what it pays for. Over the next seven years, the Coast Guard would provide a spectacular object lesson in the waste that can result from inadequate oversight of the government's private partners.

Lacking the right people to manage the Deepwater deal, the Coast Guard eagerly embraced a scheme called a "Lead Systems Integrator"—a fancy term for an arrangement in which private industry teams not only design and build the government's equipment, but also oversee all the contracting. Teams can even award government-funded contracts to themselves. At the time, LSIs were very much in vogue among government management types, as the latter sought new ways to reduce bureaucracy and make use of the private sector. Still, the hazards of such a set-up were obvious. Jim Atkinson, one of a handful of Coast Guard engineers cleared by the National Security Agency to inspect complex communications systems like those used in Deepwater, said: "It is the equivalent of putting a very juicy steak in front of a very hungry dog, and expecting the steak to still be there the next day."

Apart from the attraction of handing over the hard work of managing a complicated contract to someone else, there was another reason that the LSI arrangement may have appealed to the Coast Guard. One of the great irritations of working for a small bureaucracy is that your modest appropriations requests are nearly always dwarfed by the Penta-

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gon's insatiable demands for state-of-the art weaponry with which to defend the nation. Perhaps the only entities with comparable lobbying muscle are the big defense contractors, which spend millions of dollars sweet-talking lawmakers each year. If the Coast Guard could make a deal with influential contractors, they stood a far better chance of securing a continuing flow of cash for Deepwater.

So the Coast Guard turned to an "innovative" partnership of Lockheed Martin and Northrop Grumman, who formed a consortium for the purposes of the job. (Over the next four years the two companies spent around $50 million lobbying for weapons systems, including Deepwater.) In 2001, the General Accountability Office warned the Coast Guard that this arrangement was "risky"—the Coast Guard didn't have enough managers to supervise the contract, which contained too few provisions to ensure oversight and competition. Plus, the GAO pointed out, the private partners weren't required merely to replace individual cutters, but also to produce an integrated set of ships and aircraft connected by a single, complex communications system. If something went wrong, it would be almost impossible to change contractors midstream.

But the Coast Guard brass forged ahead. In 2002, they awarded the Lockheed-Northrop consortium a contract to dole out the subcontracts necessary to design and build all of Deepwater's ships, aircraft, and electronics, at a total cost of around $17 billion over twenty years. Unsurprisingly, Northrop assigned most of Deepwater's shipbuilding to Northrop shipyards, while Lockheed determined that it was the best available provider for the electronics. Under the terms of the contract, the private consortium, not the Coast Guard, would have full technical authority over all the Deepwater design and construction decisions. The service expected to state its wishes, write a check, and then wait for fancy new equipment to show up at its docks. Exactly how their private partners went about designing and building all that equipment was a question the Coast Guard leadership didn't bother to ask.

The first major piece of equipment to be produced under Deepwater was the 123-foot patrol boats, which would be used for short-range patrols, especially in the Caribbean, where drug smugglers and boats of refugees are a perennial problem.

The plan sounded elegantly simple: take eight of the Coast Guard's 110-foot-long patrol boats, which had been built between 1986 and 1992, add a thirteen-foot hull extension, supervised by Northrop, to each one, and cram that extra space with a brand-new electronics system connected to a satellite network, courtesy of Lockheed. For $88 million, the Coast Guard would get new-ish boats with the capabilities of brand-new boats.

However, when a Lockheed engineer named Michael DeKort was assigned to work on the boats in mid-2003, he discovered some alarming shortcomings. Over the next two and a half years, he wrote a series of e-mails and memos to his bosses, warning them that the security camera system didn't provide a full view of the ship, the cables were not sufficiently fire resistant, and the external electronics couldn't withstand rough seas or weather conditions. When nobody would approve fixes to these problems, he submitted claims through Lockheed's ethics program, which also went nowhere. He was removed from the Deepwater program in 2004. After that, he tipped off the inspector general at the Department of Homeland Security and posted a video detailing his concerns on YouTube. Lockheed responded by eliminating his position. The DHS inspector general investigated DeKort's criticisms and confirmed most of them, concluding that the findings raised "many concerns about Coast Guard's program and technical oversight" of its private partners. That year, Senator Ernest Hollings, the ranking Democrat on the subcommittee that oversees the Coast Guard, asked the GAO to investigate the management of the Deepwater contract. The GAO found that its concerns from 2001 had not been addressed, and again chided the Coast Guard for its "hands-off" attitude.

*Suddenly, the Coast Guard's dreams of a refurbished fleet aligned with the Bush administration's grand vision of government in the age of terrorism. But the necessary tools were not in place to make sure that the contractors delivered what the government had ordered.*

But there was worse to come. The first 123-foot vessel to have its hull refurbished by Northrop, *Matagorda*, made its maiden voyage in 2004. While fleeing Hurricane Ivan in September of that year, her hull buckled, causing a six-inch fissure on the main deck. The boat's propeller shaft was also misaligned. An engineering team patched up *Matagorda*, but just a few months later a sister ship, *Nunivak*, experienced similar problems. The Coast Guard inspected all eight of the 123s and discovered that they were in danger of coming apart.

In April 2007, Admiral Thad Allen, the new Coast Guard commandant, announced that the service would decommission the eight patrol boats without replacing them. He also promised to take legal action to recover the $100 million the service had paid Lockheed and Northrop. (This action is cur-



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rently on hold, pending a Department of Justice investigation of the contract.)

Allen promised a major overhaul of the Coast Guard bureaucracy to improve its ability to manage its contracts. But, he admitted, this would be "an ongoing challenge," owing to a shortage of experienced managers. In the meantime, the service would rely on paid experts from various independent, not-for-profit consulting bodies. In reality, according to Lockheed spokesman Troy Scully, Lockheed and Northrop continued to perform pretty much the same contracting role on most aspects of Deepwater.

*The Coast Guard let private industry teams not only design and build the ships but oversee the contractors. One Coast Guard engineer likened the practice to "putting a very juicy steak in front of a very hungry dog and expecting the steak to be there the next day."*

Deepwater's crown jewel was the eight planned National Security Cutters—ships capable of sailing thousands of miles from land in the worst weather, and conducting missions ranging from drug interdiction to full-scale warfare. Northrop would build the hull, Lockheed would handle the electronics, and the first example, *Bertholf*, would be handed over to the Coast Guard in late 2007.

In December 2002, before production had even begun, Coast Guard technical experts warned their superiors that there were serious problems with Northrop's proposed design. The experts had found that the ships would be plagued by "fatigue cracks" well before the thirty years of service life specified in the contract. In September 2003, the experts again wrote to management, saying that the design problems could "lead to significant program delays and cost overruns ... or even catastrophic hull girder collapse." They continued: "[We] have done all we can over the past fourteen months to work collaboratively with [the private contractors] to resolve these problems, but our input has been ignored." The next year, an independent Navy audit confirmed the experts' fears. The Coast Guard's assistant commandant recommended that construction be delayed in order to fix the design, but in 2004 the Coast Guard authorized production on the ships over its experts' objections.

By the time construction began, the price tag on the National Security Cutters had already increased from around $300 million to more than $400 million each, thanks to extra features added to the design to fulfill the Coast Guard's counterterrorism mission. In 2005, Hurricane Katrina damaged the shipyard in Pascagoula, Mississippi, where *Bertholf* was being built, delaying her completion by several months and tacking millions more onto the price. *Bertholf* would now cost more than $640 million.

Finally, in 2006, the Coast Guard conceded that its own experts had been right about the problems with the ship's design. In January 2007, the Department of Homeland Security's inspector general released a scathing report exposing the repeated efforts by the Coast Guard's technical experts to warn their bosses about the flaws in the boats' design. The report concluded: "The [National Security Cutters'] design and performance deficiencies are fundamentally the result of the Coast Guard's failure to exercise technical oversight over the design and construction of its Deepwater assets." Democratic members of Congress had expressed concerns about Deepwater before, but now they had the majority in both the House and the Senate and the evidence to push for major changes.

In a February hearing, Democratic Senator Maria Cantwell, the chair of the subcommittee that overseas the Coast Guard, called Deepwater "the fleecing of the taxpayer with ships that don't float" and a "failed experiment." Admiral Allen admitted that "we have been running some parts of the Coast Guard like a small business when we are a Fortune 500 company."

But the recriminations came too late for *Bertholf*. The ship's original acceptance date arrived at the end of 2007, but *Bertholf* did not. The Coast Guard admitted that the handover would have to be bumped back to February 2008. February came and went, and the Coast Guard said that it needed more time due to lingering problems with the ship's electronics. Laura Williams, a Coast Guard spokesperson, said that the industry team was just being "proactive" in dealing with potential problems with the ship before delivering it. And the Coast Guard defended the electronics, pointing to the results of a key inspection of *Bertholf* in April by Navy officers, which certified that all of *Bertholf*'s major systems worked to spec. However, an anonymous tipster contacted DeKort to tell him that the Coast Guard had removed the malfunctioning electronics equipment prior to the Navy inspectors' arrival; Atkinson, the electronics expert, corroborated this after receiving another tip explaining that *Bertholf*'s crew had been using a totally unsuitable Army-style handheld radio to communicate with the network in place of the allegedly flawed Lockheed-designed systems. *Bertholf* was eventually delivered in May, but the Coast Guard may be forced to bring the ship into dry dock to repair the structural problems, at an undetermined cost.

On March 6, Admiral Allen appeared again before Cantwell's subcommittee to defend the program. At the



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hearing, Cantwell demanded to know how the Coast Guard was going to do better. Allen assured Cantwell that the agency had "turned a corner" in managing Deepwater—and, indeed, the GAO has found improvements. But even now, no one knows what the total price of the eight National Security Cutters will be. Not counting the previous overruns, cost increases could add hundreds of millions of dollars to the tab.

With delays and costs mounting on new ships, the Coast Guard must keep its existing ships in working condition for years longer than planned. This daunting task falls to the Coast Guard Yard, a tiny government shipyard near Baltimore in southern Maryland. I toured the 109-year-old facility with yard commander Steve Duca in late 2006. Several patrol boats had been hoisted up on lifts so that workers could reach the bottoms of their hulls. In the belly of one vessel, Duca pointed out dime-size holes and lengths of plating held together only by rust. I saw another cutter, *Spencer*, a spring chicken at just twenty-four years old. The blocky, 270-foot ship was dirty, damp, and smelled like mildewed carpet. The aim for *Spencer* was simply to clean her up enough to make life aboard a little less unbearable for her fifty or so crew members.

Thanks to Deepwater, the boatyard is responsible for performing triage on boats that the Coast Guard admitted were too old five years ago. With the National Security Cutters delayed and the 123s scrapped altogether, major maintenance problems on existing ships have spiked. In a 2005 letter to the Office of Management and Budget, Senators Joe Lieberman and Susan Collins described a disturbing pattern of lost patrol hours and twenty-three hull cracks in a single year—concluding that "Cutters and aircraft failures are occurring at an increasing rate affecting not only the Coast Guard's efficiency, but also putting crew members in danger in the field." In February this year a cutter named *Rush—Dallas*'s sister ship—suffered a two-foot crack in her hull and had to abandon a search-and-rescue mission off Alaska.

In fact, the boatyard's operations have become so critical that it is now competing with Deepwater for funds. "Every dollar spent here on legacy stuff on the cutter side is a dollar you take away from the new cutters," Duca explained. But the "legacy stuff" has to be maintained precisely because new cutters have not appeared. In 2006, for instance, maintenance of old boats ate up 25 percent, or $240 million, of Deepwater's funding.

The ultimate result of Deepwater's travails is that a well-respected agency—the only one, in fact, to perform admirably during Hurricane Katrina—is now finding it increasingly difficult to carry out its core mission. Even before Deepwater sprung leaks, the Coast Guard was struggling to be both an overseas counterterror force and a domestic safety and law enforcement agency. "We're not doing as many inspections as we were, we're not doing as much drug interdiction," Vice Admiral James Hull, Atlantic Area commander, told *USA Today* in 2002. "Fisheries patrols are down a little bit. So we're stressed." And between the decommissioning of eight patrol boats and the advanced age of the remaining forty, the Coast Guard says it has an approximately 10 percent shortfall in the total number of hours its patrol fleet can spend on missions. In other words, there's an increased chance that, when an accident occurs off our coasts or terrorists attack our ports, the Coast Guard won't be able to respond.

Deepwater's extravagant failure has at last prompted some needed changes. Barack Obama has called for a renewed focus on old-fashioned acquisitions management. Maria Cantwell successfully pushed for legislation to add more experienced contract managers to the Coast Guard workforce, to require teams of shipbuilding experts to oversee production on new cutters, and to ban the formation of any more Lead System Integrator deals after 2010. (The remaining major LSIs oversee contracts worth a combined half-trillion dollars, nearly all of which are late and over budget.) And the Coast Guard formally canceled its own LSI, meaning that it now technically has control of the Deepwater contracts, although it is still relying on major support from consultants.

Still, the saga is far from over for the Coast Guard. This spring, Homeland Security Secretary Michael Chertoff went to Congress to present DHS's budget requests for 2009, which included some $9 billion for the Coast Guard, a modern record. His plea for more funding revealed just how far ambitions for the Coast Guard have fallen. Seven years ago, Coast Guard officials were consumed with futuristic visions of a "layered defense," a "dynamic system of assets that are mission-focused, modular, [and] network-centric," and "the world's best multi-mission Coast Guard." Now all Chertoff wants is boats that float. "I think we owe it to the Coast Guard's men and women who go out and take their lives in their hands," he said, "to occasionally replace their equipment with something that is modern, up-to-date, and isn't going to burst a seam. WM

*The ultimate result of Deepwater's travails is that a respected agency—the only one, in fact, to perform admirably during Hurricane Katrina—is now finding it increasingly difficult to carry out its core mission.*

**David Axe** is a freelance war correspondent based in Columbia, South Carolina. He blogs at www.warisboring.com.



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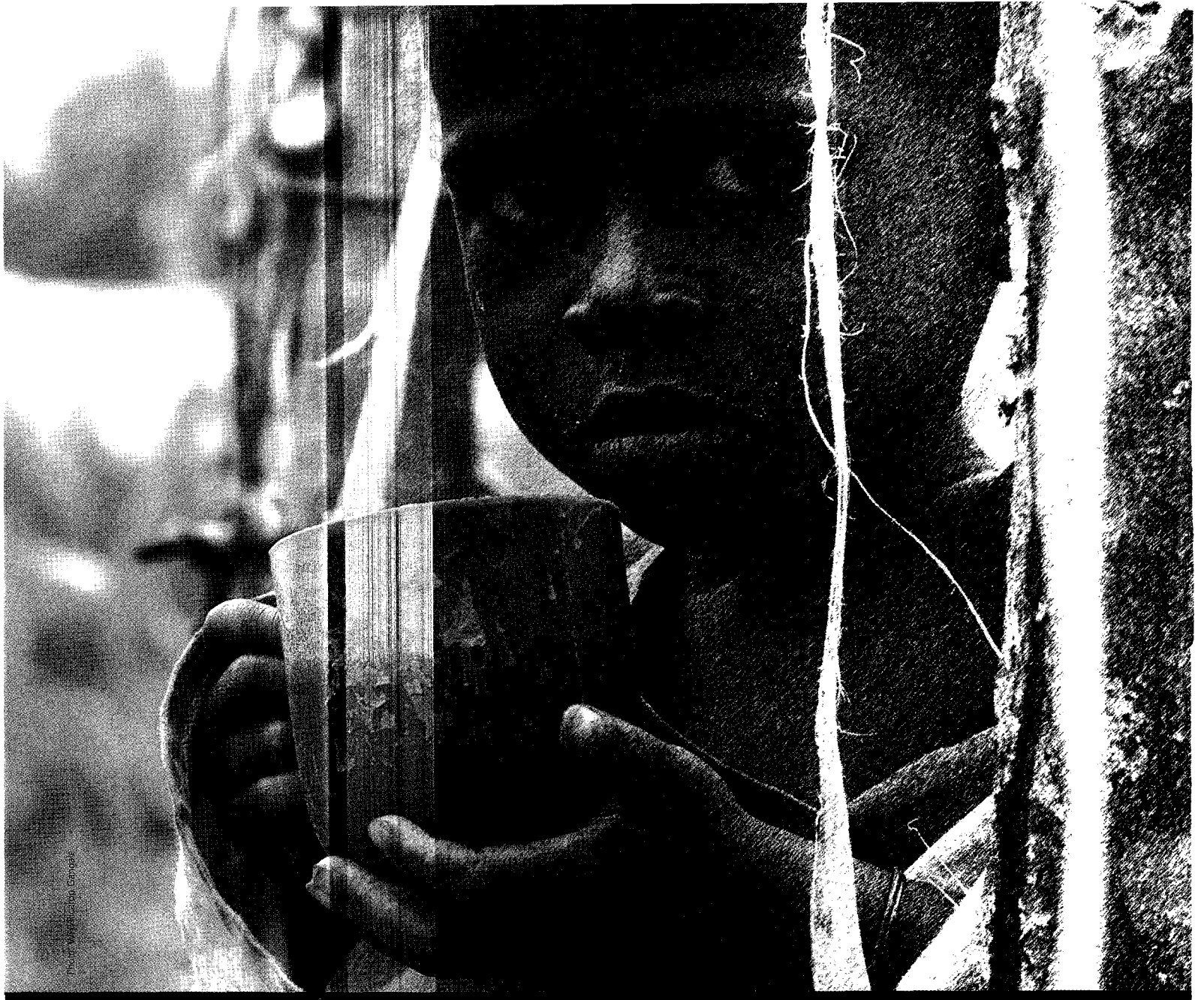

Photo: Vera Rocha Campos


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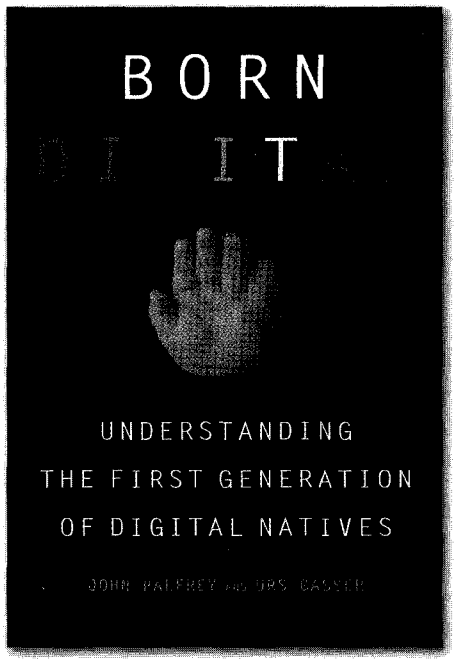
# Open Society

## The rules of the digital era aren't clear, even to the generation that has grown up in it.

By Doron Taussig




**Born Digital: Understanding the First Generation of Digital Natives**
by John Palfrey and Urs Gasser
Basic Books, 288 pp.

I remember the moment it dawned on me that our old social rules and norms might not be adequate to this digital era we live in. I was chasing down a story in Philly about a unionizing drive at a local restaurant, which happened to be owned by a well-known progressive activist. The organizers were a bit skittish, but I contacted them via their MySpace pages, and persuaded them to talk about the details of the drive and the ironies of the situation (the owner supported unions in principle, but didn't want one in her shop). It proved more difficult to get them talking about the antipathy that had developed between the parties: one woman in particular, who worked at the restaurant, was understandably measured in her criticism of her boss. On her MySpace page, however, she displayed no such restraint.

Like any journalist, I wanted to render the dynamic of the situation I was documenting as accurately as possible. So, reasoning that the MySpace profile was available to anyone (and not thinking much else about it), I quoted something from it in the story I eventually wrote. The night the piece went live online, the organizer called me, frantic (and possibly tearful): though I'd found her through her public page, it had never occurred to her to consider the thing, you know, *public*. She felt betrayed, exposed, and vulnerable. And she thought I was an asshole.

That was the moment.

Digitization means social change—an undeniable reality after an awkward epiphany like that one. Still, I'll admit I was a bit skeptical when my editor sent me *Born Digital: Understanding the First Generation of Digital Natives*, by John Palfrey and Urs Gasser. Much of the attention paid to digitization seems to be hysterical in nature, and a book by two professors about the proclivities of people raised in the digital era sounded to me like a recipe for hyperbole. I expected to write a review gently mocking it, and making the clear-headed observation that, no, kids today are not some new breed of human/iPhone hybrid.

Unfortunately, that approach won't be available to me here. Because after a slew of interviews with what they call "Digital Natives" and a thorough survey of the digital world, Palfrey and Gasser have written a book about this social transformation that is both insightful and responsible. It may even help people prepare a little better for clumsy digital-era interactions like mine.

The premise here is indeed that Digital Natives are different. The authors are wise to be clear that, by Digital Natives, they refer not to a generation, but a population: those people born after 1980 who were raised with digital technologies and who "don't remember a world in which letters were printed and sent, much less hand-written, or where people met up at formal dances rather than on Facebook." I could quibble with this—I was born in 1981, and think I belong to an in-between group that *does* remember those things; plus, technical aptitude varies greatly even within the Digital Native cohort. But these distinctions aren't that important here, because the book is written



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for people who came of age before digitization really took off, and takes a "We-as-parents" sort of outlook. The fact that the terms are defined a bit too broadly doesn't really sidetrack this mission.

The most helpful thing that Palfrey and Gasser do is to catalog the various ways and realms in which digital technologies, and the people who use them, are changing society: things like personal identity, privacy, safety, property rights, distribution of information, and political activism. As I expected to point out when I thought I'd be reviewing a ten-o'clock-news, oh-my-god-your-children-are-alone-on-the-Internets kind of book, in some of these arenas people are simply doing things they've always done, but using a new medium. Cyber-bullying, for example, is motivated by the same impulses as classic bullying; now it's just disembodied, and performed in front of a potentially larger audience. Political activism, similarly, has been made hugely more effective and democratic by the highly social nature of the digital world, but is still, in large part, about fund-raising and persuasion.

In other arenas, the authors identify what do strike me as fundamental changes. Take property rights, for instance. The transformation here goes beyond the strange willingness of so many people who would never have shoplifted a CD from Tower Records to illegally download music online. In *Born Digital*'s "Pirates" chapter, Palfrey and Gasser point to studies indicating that it barely even *occurs* to many Digital Natives that downloading music is "stealing." In the digital age, people are just not going to have the same understanding of intellectual property.

Or take the abstract concepts of identity and privacy. There was a time, the authors say, when the range of identities available to a sixteen-year-old girl were limited in scope, but aspects of her identity were escapable—she could hide her Goth clothes from her grandma, say. Now that everyone posts thoughts and pictures on the Web, "a sixteen-year-old girl can create multiple identities online with ease, [but] she is more bound to a single identity than ever before." To live online is to live in a sort of permanent public, and it's not clear that people have grasped this. Certainly there's a teenager somewhere today posting something on her MySpace page that she wouldn't want her grandmother or a future employer (or a journalist) to see—and that's not even taking into account today's Digital Infant, whose every development is being recorded, whether through Flickr, Snapfish, or a less-than-perfectly-secure medical database all in a potentially public domain.

Andrew G Hobbs

Some of these developments are good, and some are cause for concern; some, like what's happening in the realm of information—the democratization, and de-



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professionalization, of publishing—are both (although the authors argue, and I agree, that it's more good than bad). The point, in any case, is that the pace of these changes is outstripping the rules and social norms that govern the way we live, and that, when nondigital society *has* reacted, it's often done so in panicky fashion—by seeking to prohibit children under eighteen from using MySpace, for instance (as a former attorney general of Massachusetts proposed in the midst of an unsuccessful run for governor), or by trying to attract the business of music fans by suing them en masse (as record companies have done). So, after identifying each arena of change, Palfrey and Gasser set out to suggest how society might adapt, to help Digital Natives build an optimal digital world.

It took me a couple of days to pinpoint what the advice portions of *Born Digital* feel like, but I think I've got it: they feel like a professional development seminar, run by a consultant who has lots of charts and catchphrases and feel-good talking points. That's not to say the advice is bad. It's just kind of hokey.

The hokiest element of all is a chart Palfrey and Gasser draw of the various actors they believe can help Digital Natives navigate their digital lives. It contains five concentric circles, with the Digital Native, of course, at the center. The closer an actor is to that center, the more intimate a role the authors believe it has to play.

In the outermost circle we find "State and Law Enforcement." This is a little disconcerting, since the first instinct in any discussion of how society needs to *DO SOMETHING!* tends to be to ask what law can be passed. But Palfrey and Gasser, both lawyers, counsel against this, observing that the law is an imperfect tool online, both because the Web often renders jurisdictions irrelevant and because much online activity is difficult to police. Still, they identify several areas where the law can do some good: I particularly liked the idea of mandated, standardized labeling of Web services' privacy policies, such as how long data is kept before it is deleted, or with whom it might be shared. This would raise consumers' awareness of privacy issues, and encourage companies to institute more responsible policies. (Right now, Palfrey and Gasser write, "virtually every service reserves the right ... to change its privacy settings at any time." So information disclosed under one set of rules could later be given away under another.)

The next circle in contains what the authors call "(trusted) companies and software providers." Throughout the book, Palfrey and Gasser suggest ways that the private sector could make the digital world a better place: in the "Pirates" chapter, for instance, they argue that "the incentive system is out of whack in the context of digital media," and recommend that, rather than fighting them tooth and nail, content providers like the NFL should start striking revenue-sharing deals with companies like YouTube. I found myself rolling my eyes a bit at some of this stuff, particularly when the authors call on companies to do things that aren't clearly in their short-term economic interest (like instituting better privacy policies *without* a government mandate—why would they?). But it is true, as the authors say, that the social, feedback-friendly nature of the online world might help push smarter companies in the right direction.

*The advice portions of* Born Digital *feel like a professional development seminar, run by a consultant who has lots of charts and catchphrases and feel-good talking points. That's not to say the advice is bad. It's just kind of hokey.*

The final two circles contain "Teachers, Coaches, Mentors" and "Friends and Family," respectively. I suppose there's some reason for grouping these two separately besides making the circle chart prettier, but for the most part, when Palfrey and Gasser discuss these actors, they're talking about the same fundamental issue. "There's an unnecessary technology gap between young people and many of their parents and teachers," they write. "The net result of this gap is that our kids are too often at risk in an environment where some of them are prone to risky behavior, like conversing with strangers they'd never talk to in 'real space.'"

Time and again, Palfrey and Gasser declare that "education is the best way" to solve some problem or other, and call on "Digital Immigrants" to better acquaint themselves with the digital world—by learning about copyright laws, playing their children's video games, familiarizing themselves with the Web sites young people visit, etc., and then, of course, talking to kids. A lot of this has an easier-said-than-done quality to it, since parents have a hard enough time talking to teens about things they *do* understand. That said, I don't want to be the one arguing against a call for more involved parenting. It's true that kids in online society, like any other, need adult guidance, and that many adults are currently even less equipped to lend it than they are in other contexts.

The only thing I'd add here is that there's a more cynical case to be made for this sort of engagement than the one Palfrey and Gasser offer. The authors of *Born Digital* generally present their argument to parents looking to do right by their kids, to help them build a healthy digital society. But there are, obviously, already a lot of adults online, and a fairly well-established digital society with its own rules and norms. We're still at a point where you can get away with being ignorant of these rules. But we won't always be. I don't think I violated an unwritten Web rule by pulling that quote off of MySpace, but if I did, I won't always be able to get away with it so easily. There will come a time when the digital rules are just *the rules*, and many of the people Palfrey and Gasser are talking to will be around to see it. Better to prepare yourselves now. WM

**Doron Taussig** is news editor at the Philadelphia *City Paper*.



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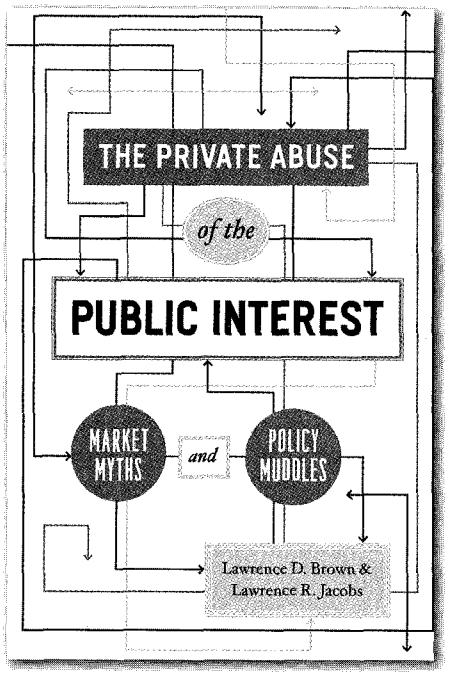
# Paradox of Deregulation




**The Private Abuse of the Public Interest: Market Myths and Policy Muddles**

by Lawrence D. Brown and Lawrence R. Jacobs
University of Chicago Press, 151 pp.

## Why market fundamentalism eventually leads to more government, not less

By Greg Anrig

In the waning days of the Bush administration, as venerable Wall Street firms collapsed, credit markets froze, stocks crashed, and economic indicators deteriorated, free market, antiregulatory Republicans found themselves with no choice but to partially nationalize the banking industry. It was a Shakespearean denouement for the conservative movement. For nearly thirty years, the right had dominated political debate on the strength of the simple argument that government was the problem and free markets the solution.

That ideology produced the deregulation of the banking system that began in earnest the year Ronald Reagan was elected to the presidency. Even after the savings-and-loan fiasco of the 1980s and '90s, the pro-market doctrine was potent enough to produce the repeal in 1999 of the sixty-six-year-old Glass-Steagall Act, which tore down barriers between investment and commercial banking activities. And a dogged belief in free markets sustained the adamant passivity of the libertarian Federal Reserve chairman Alan Greenspan, the Wall Street alumnus Robert Rubin, and the Bush economic team in the face of clear dangers posed by unregulated financial derivatives, predatory lending practices, and overly leveraged institutions and consumers. In short, the forces that brought about this fall's crisis can be traced in large measure to a thirty-year project to minimize the government's role in the financial marketplace.

Yet even at the end of the line, in September of 2008, Treasury Secretary and former Goldman Sachs CEO Henry Paulson demonstrated that his heart remained with the private sector—initially proposing that the government swallow near-worthless securities from banks while recapitalizing them. Only after the markets balked at Paulson's strategy was he forced, along with his fellow conservatives, to accept that reality had stampeded their belief system. And so the government became part owner of major banks to save an industry that once had emblematized the virtues of markets.

As Lawrence D. Brown and Lawrence R. Jacobs demonstrate in *The Private Abuse of the Public Interest: Market Myths and Policy Muddles*, the era of conservative dominance has wrought a cyclical pattern: first comes the fervent advocacy of market-based policy ideas, followed by their implementation, which causes damage that can only be fixed by extensive governmental intervention. Although the financial sector unraveled in the weeks surrounding the book's publication date, Brown and Jacobs tell very similar stories (albeit less dramatically) in three other realms: education, health care, and transportation. Their central argument is that "an era dominated by market enthusiasts and bi-partisan agreement that 'government is the problem' produced not only market-oriented policies that fall short of promised outcomes but also more government."

Brown and Jacobs discern five phases—akin to the five acts of the Bard's tragedies—in the cycle. First, conservatives deem the central problem in every arena to be an insufficient reliance on markets. So in education, for example, conservatives saw disappointing student achievement and decided that the overriding cause was public school bureaucracies that suffocated innovation. Second, conservative policy ex-



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perts propose a simple solution: a substitution of market forces for government. In education, the purest model of that approach was Milton Friedman's school voucher idea, which would replace public school systems with stipends to parents that they could use to shop for the best school, including private parochial institutions. The competition unleashed by that approach, Friedman and his disciples claimed, would produce educational innovations and liberate parents who were unhappy with their limited neighborhood public school options.

The third step in Brown and Jacobs's framework is legislative action to implement the ideas proposed by the market worshippers. Milwaukee led the way on the school vouchers front, followed on a smaller scale by voucher programs in Cleveland and Washington, D.C. However, in most places the voucher concept faced massive political resistance (all eight voucher referenda on state ballots over the years were trounced). So pro-market advocates embraced the considerably less controversial alternative of charter schools that could operate outside of established rules governing the public school system.

The fourth phase is when the seductive simplicity of free market theory meets complicated institutional reality. As Brown and Jacobs put it: "... consumers, providers, and complex organizations behave in ways that do not always follow the script. The incentives that were expected to accompany competition did not consistently appear on cue." Sticking with the education case, researchers examining the Milwaukee and Cleveland voucher programs found that parents lacked information that would enable them to be discerning shoppers, often failed to explore different options, and in some cases left their children for years in private schools that were deeply flawed. Study after study generally showed that test scores of voucher students attending private schools were little or no better than those in the public ones, and that the promised benefits to the overall school system from competition didn't come to pass. Charter schools likewise proved to be a very mixed bag in terms of test scores and other measures of quality.

The final stage is when political backlash forces policymakers to respond to the unintended consequences and failures of the market-based approaches—causing government to grow and thereby subverting the original goals of the pro-market adherents. So, for example, in Minnesota, California, and other states, fraud and mismanagement by operators of charter schools and lax supervision by their sponsors resulted in new laws and regulations entailing greater government oversight. And in the cities with voucher plans, government oversight has ratcheted up over time in response to a multitude of unforeseen problems, such as gross financial mismanagement by some of the private schools.

The main argument and big picture that Brown and Jacobs present is basically right, and the fact that their framework applies to cases that they don't even delve into—like banking deregulation—underscores the validity of their analysis. But as often happens when academics try to write about public policy for a general readership, this slender 151-page book sometimes teeters between obtuseness and oversimplification. For example, nonexperts will likely feel their heads spinning as the authors explore transportation then education then health care and back again for each of the five phases of their framework. The analysis would have been much easier to follow if Brown, a professor of health policy and management at the Mailman School of Public Health at Columbia University, and Jacobs, the director of the Center for the Study of Politics and Governance at the University of Minnesota's Humphrey Institute, had simply told each policy tale one at a time, from start to finish. It also would have helped if the University of Chicago Press had waived its cumbersome citation style for this nonacademic book.

The authors are somewhat imprecise about a number of points, including what constitutes a market-based policy. They critique the No Child Left Behind Act and the managed care approach to health cost containment as if both entail simply replacing the government with markets, when that's not really the case with either example—the rationales for both problematic policies went well beyond unleashing competitive market forces. Likewise, charter schools can be justified as an experiment worth pursuing for reasons that have little to do with market pressures and competition, though conservatives most certainly have tried to claim ownership of the charter idea by glomming pro-market, anti–teacher's union rhetoric onto it.

*With his first bailout plan in September, Treasury Secretary Henry Paulson demonstrated that his heart was with the private sector. Only after the markets balked at his strategy was he forced, along with his fellow conservatives, to accept that reality had stampeded their belief system.*

With a presidential candidate openly campaigning for more rather than less regulation, as Barack Obama has just done successfully, the United States has clearly entered a new era. When the inevitable reaction pushing for a return to free markets comes back around, the lesson of this insightful book is clear: don't go there unless you want even bigger government to clean up after the failures that are sure to follow. WM

**Greg Anrig,** the Century Foundation's vice president for programs, is the author of *The Conservatives Have No Clothes: Why Right-Wing Ideas Keep Failing.*



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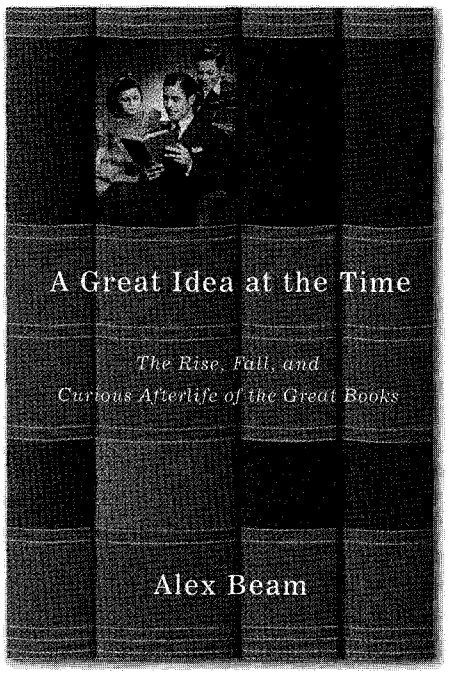
# Admired, Not Read




**A Great Idea at the Time: The Rise, Fall, and Curious Afterlife of the Great Books**
by Alex Beam
Public Affairs, 256 pp.

## Marketing "Great Books" to the masses may have been a silly idea. But requiring college students to read them isn't.

By Kevin Carey

Last year, I was invited to Dickinson College in southern Pennsylvania to debate the meaning of success in higher education. My counterpart in the discussion was Christopher Nelson, president of St. John's College, a small liberal arts school in Annapolis, Maryland. We were introduced by our host, and Nelson went first. His speech was erudite, passionate, and replete with classical references. He waxed eloquent about the meaning of knowledge, and how teaching as an enterprise was central to the St. John's philosophy. I found myself glancing uneasily at my own notes, which had always served me well in the past but suddenly seemed paltry by comparison.

I didn't realize it then, but I had run headlong into the Great Books of the Western World, the subject of a smart, engaging new book by Alex Beam, a columnist for the *Boston Globe*. In *A Great Idea at the Time: The Rise, Fall, and Curious Afterlife of the Great Books*, Beam traces the history of a peculiar moment in the development of America's striving middlebrow culture, when hundreds of thousands of families across the nation decided to spend a lot of money on ancient texts that few would ever read. It's also a story of higher education, and a 140-year-old argument about the responsibilities that colleges have to students.

Beam's narrative begins in 1869, with the appointment of Charles Eliot to the presidency of Harvard University. At the time, undergraduates at Harvard and other Ivies were forced to take a (literally) medieval curriculum loaded with Greek, Latin, philosophy, rhetoric, and math. Eliot blew the rigid, memorization-heavy program to smithereens and replaced it with an elective system that remains the model for nearly all colleges today. Suddenly, students could choose to learn what they wished, and most were happy with the change.

Not all, though. In 1901, John Erskine graduated from Columbia University convinced that he and his peers paled in comparison to the "superlatively educated college man of only a generation or so ago, who was on speaking terms with the classics in the fields of literature, of history, of philosophy." Appointed to the Columbia faculty after World War I, Erskine pushed for the resurrection of the Great Books, and in 1920 the university began requiring freshmen to read Homer, Aeschylus, Aurelius, and the rest. Nearly ninety years later, undergrads in Morningside Heights are still studying a version of Erskine's classic core.

One of the first students to take the new course was a jewelry salesman's son named Mortimer Adler. Brash, abrasive, and unapologetic, Adler would spend his long life promoting the virtues of Aristotle to whoever would listen, and many who wouldn't. In 1927, Adler's intellectual passions led him to correspond with a kindred spirit: Robert Maynard Hutchins, the *wunderkind* dean of Yale Law School. The oddly tragicomic story of this mismatched pair and what they wrought forms the backbone of Beam's book.

In 1929, the University of Chicago trustees offered Hutchins, just thirty years old, the U of C presidency. He accepted, and brought Adler along for the ride. Fueled by Chicago's mercantile vigor, the University of Chicago had quickly established itself as a leading center of graduate research. But the undergraduate program languished. To Hutchins



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and Adler, the solution was clear: make Chicago a center of Great Books teaching. "The children of the Midwestern bourgeoisie were going to learn metaphysics," Beam writes, "whether they liked it or not."

Hutchins soon became the kind of intellectual celebrity that doesn't exist in this country anymore, twice gracing the cover of *Time* magazine. The Great Books idea spread out from Hyde Park, spawning book clubs in libraries, churches, businesses—even prisons—as well as extension courses for wealthy Chicago fat cats and their wives. One of those businessmen, William Benton, sensed an opportunity to capitalize on the sudden enthusiasm. So he bought the money-losing *Encyclopaedia Britannica* franchise from Sears, Roebuck and proposed an official Great Books series—to be selected by a prestigious committee of scholars led by Hutchins and Adler (of course). Nine years later, in April 1952, the Great Books of the Western World were unveiled at a lavish dinner in the Waldorf-Astoria. "You who have brought the Great Books are taking upon yourselves a magnificent burden, the burden of preserving as did the monks of ancient Christendom, through another darkening," intoned one attendee at the orgy of self-congratulation.

But it didn't work out the way any of them hoped. Benton launched a canny marketing campaign that plumbed the cultural insecurities of the burgeoning middle class, while an army of door-to-door *Britannica* salesman, some posing as U of C professors, convinced hundreds of thousands of families to fork over $300 for the fifty-four-volume set on the installment plan. Unfortunately, most of the books were all but unreadable, printed in double-columned nine-point type with no explanatory footnotes or guidance for the common man. Enthusiasm peaked in the 1960s, by which time Hutchins had long since left Chicago. His core curriculum was scaled back soon after his departure. A hoped-for appointment to the Supreme Court never came, and Hutchins faded from public view. He died in 1977 convinced his life had been a failure. Adler lived until 2001, tirelessly promoting the Great Books, and himself, with diminishing returns. Like Hutchins, Adler went to his deathbed thinking that he, too, had failed in his life's mission.

But had they been failures? Beam spends less time grappling with this question than he could have. At the beginning of *A Great Idea,* Beam promises the reader "a book as different from the ponderous and forbidding Great Books as it could possibly be." In this, he succeeds admirably, using his columnist skills of narration and concision to full effect. Beam has an eye for the telling anecdote and character tic, bringing Adler and Hutchins to life with honesty and humanity. Barely a word is wasted in the book's lively 201 pages, which can be consumed in one long, rewarding sitting. It's a story worth telling, and it's hard to imagine it being told with more verve or appeal. In the end, however, Beam seems unsure of the legacy of the Great Books, and in this sense I think he underestimates them—not the volumes themselves, but what they represent and why they matter, particularly for higher education.

Columbia and Chicago have retained a semblance of a classic core. But the vast majority of colleges employ a worst-of-all-worlds Chinese-menu approach to learning, requiring students to pick a few dishes from a long list of humanities, literature, and science courses. Avoiding Aristotle is a snap, and most students do just that. What's left is the mirage of a liberal education with no required engagement with the ideas that matter most.

That was a problem in 1929; it's intolerable in this age of information abundance. The modern struggle isn't finding information but making sense of it, navigating what the late David Foster Wallace called "Total Noise, the seething static of every particular thing and experience, and one's total freedom of infinite choice about what to choose to attend to and represent and connect, and how and why." The crusade to make the Great Books available has been rendered obsolete by technology. Most texts in the series can be found for free, on the Internet. Anyone with a computer or smart phone effectively owns the Great Books in all their multivolume glory. The challenge that remains is what Hutchins and Adler failed to do: helping people make sense of the Great Books and the ideas therein, so those ideas can, in turn, give people the wisdom to cope with Total Noise.

That takes time, expertise, and focus—the kinds of things colleges are supposed to provide. Yet very few do. The exception that more or less proves the rule is St. John's College in Annapolis, led by Christopher Nelson, my Dickinson debating partner. For the five hundred or so "Johnnies" in Annapolis, the Great Books aren't the core curriculum—they're the *whole* curriculum, which looks a lot like the pre-Eliot Harvard course catalog circa 1868. It works for them, and Beam views the college and its nonconformist students with obvious affection. But St. John's is tiny and not building new campuses anytime soon.

*Beam traces the history of a peculiar moment in the development of America's striving middlebrow culture, when hundreds of thousands of families across the nation spent a lot of money on ancient texts that few would ever read.*

Higher education's abdication of responsibility for guiding students, for being more than an intellectual supermarket, stems from mutual self-interest: most freshmen don't want to study the Great Books, and most professors, burrowed deep into disciplinary micro-specialization, don't want to teach them. The program also suffers from politicization. Once conservatives like Allan Bloom planted their flag in the Western canon, it became part of the right's culture war agenda—ironic, given that Hutchins spent the last decades of his life arguing for nuclear disarmament and One World Government.



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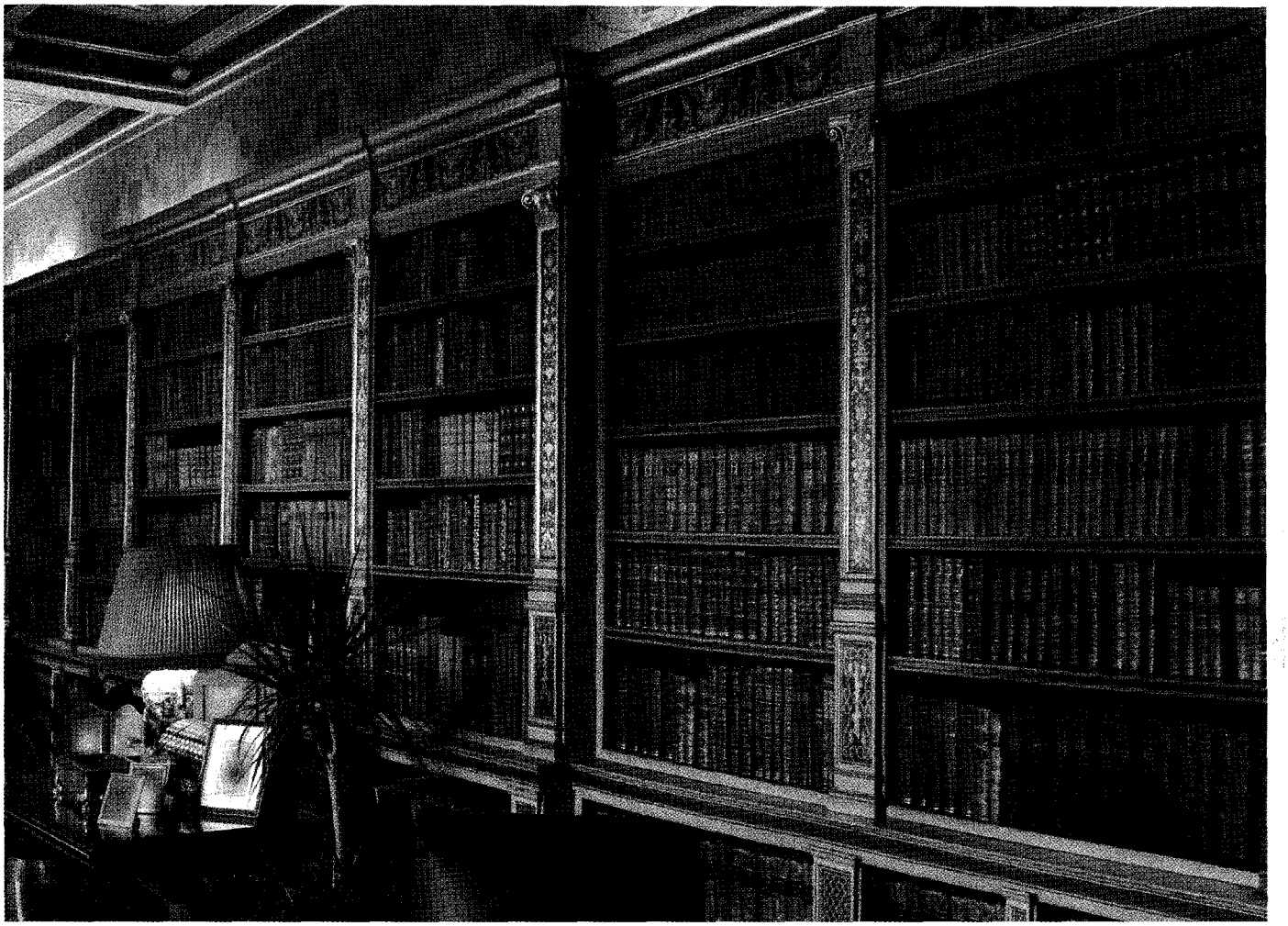

Liberals need to reclaim the classic liberal arts education, and come to grips with the fact that many of the ideas most worth studying were invented by dead white men. Undergraduates may want total freedom to choose what to study, but colleges have an obligation to balance what students want with what they need. That doesn't mean wholesale conversion to the extreme St. John's model or the restoration of ancient Greek, but it does mean some kind of coherent, disciplined curriculum—or curricula, among which students can choose, and on which colleges can compete. Four years is little time in the grand scheme of things, and colleges could do a much better job of helping students make the most of it.

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If they do, I think the students will look back in appreciation. I suspect it's not a coincidence that Hutchins's University of Chicago touched so many important American lives. Susan Sontag was among those who hopped on a train to the Second City, drawn to the promise of engagement with Greatness. So was Katherine Meyer, who became Katherine Graham. Saul Bellow paid his rent by indexing the books for Adler. Gertrude Stein stopped by to argue the propriety of teaching Greek texts in English translation. Great ideas and great people go hand in hand.

And the more those ideas make their way into broader society, the better off we'll be. The Great Books mania may have been commercialized, compromised, and naive. But it rested on a faith in hard-won wisdom, what Hutchins considered the true aim of higher education. I'm wiser having read *A Great Idea*, a Very Good Book indeed. WM

**Kevin Carey** is the research and policy manager of Education Sector, an independent think tank in Washington, D.C.

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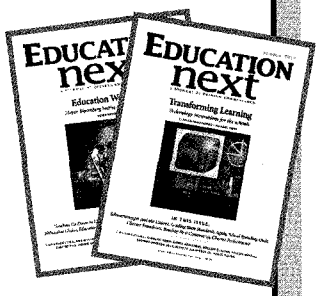


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*—William G. Howell, Martin R. West, and Paul E. Peterson*

### The Early Education of Our Next President

Both candidates were mainly taught at home

Whether it is the image of Abraham Lincoln studying by log cabin candlelight or George Washington dutifully copying the *Rules of Civility and Decent Behaviour in Company and Conversation* into his schoolboy notebooks, presidential schooling has long been a national fascination. Today we have a graduate of Columbia College and Harvard Law (Barack Obama) taking on a graduate of the Naval Academy and National War College (McCain) But it is the early schooling—how did they get there?—that is most fascinating.

*—Peter Meyer*

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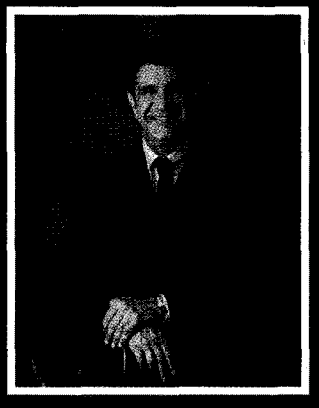
# Employee Free Choice ACT



**Roger Smith**
President and CEO
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## In support of the Employee Free Choice Act

Over 30 years ago, the Home Office staff and field representatives of American Income Life Insurance Company formed a union using majority sign up. When a majority of workers indicated their support for a union, we honored their choice, recognized their union, and negotiated a contract. We respect a worker's right to collective bargaining, and this has paved the way for a cooperative and productive relationship.

We also have a long, rich tradition of partnering with the working family community – advocating for key issues and investing in a public agenda that reflects the core values of working people.

We believe the Employee Free Choice Act is a smart, fair, and good public policy because it protects workers' freedom to form unions.

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